



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405

www.atf.gov

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APR 27 2015

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Dear (b) (6)

This is in response to your letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Office of Public and Governmental Affairs (PGA). Your letter was forwarded to the ATF, Firearms Technology Industry Branch (FTISB), in which you asked if the following activities by an un-licensed individual are lawful. Your questions are paraphrased below, followed by FTISB's comprehensive answer.

1. Can I spray paint my personally owned firearms?
2. Can I engage in the business of spray painting firearms for a fee?
3. Can I spray paint a firearm silencer, as long as the serial number is "clearly visible and un-altered"?
4. Is a Sig Arms forearm brace added to an AR-type pistol still considered a pistol and not a short-barreled rifle?

As for background, a review of pertinent definitions is required:

The Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(29), defines "**handgun**," in part, as ...a firearm which has a short stock and is designed to be held and fired by the use of a single hand....

A regulation implementing the GCA, 27 CFR § 479.11, defines "**pistol**" to mean—

...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

The GCA, 18 U.S.C. § 921(a)(7) defines the term "**rifle**" as—

...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

The National Firearms Act (NFA), 26 U.S.C. § 5845(a), defines "**firearm**" to include ...a rifle having a barrel or barrels of less than 16 inches in length ... and, a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches...

As you are aware, the amended Gun Control Act of 1968 (GCA), 18 U.S.C. 921(a)(3), defines a firearm to include any firearm muffler or firearm silencer. The GCA, 18 U.S.C. 921(a)(24), further defines "**firearm silencer**" and "**firearm muffler**" to mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication. The NFA, 26 U.S.C. 5845(a)(7), also defines the term "**firearm**" to include a silencer.

ATF's long-standing position is that any activities that result in the making of firearms for sale or distribution, to include installing parts in or on firearm frames and receivers, and processes that primarily enhance a firearm's durability, constitute firearms manufacturing that may require a manufacturer's license. In contrast, some activities are not firearms manufacturing processes, and do not require a manufacturer's license. For example, ATF Ruling 2009-1 (approved January 12, 2009) explained that *performing a cosmetic process or activity, such as camouflaging or engraving, that primarily adds to or changes the appearance or decoration of a firearm is not manufacturing.*

Likewise, ATF Ruling 2009-2 (approved January 12, 2009) stated that installing "drop-in" replacement parts in or on existing, fully assembled firearms does not result in any alteration to the original firearms. Persons engaged in the business of these activities that do not constitute firearms manufacturing need only obtain a dealer's license.

Although installing parts in or on firearms, and applying special coatings and treatments to firearms are manufacturing activities, the definition of "manufacturer" in 18 U.S.C. 921(a)(10) and 27 CFR 478.11 also requires that a person be "engaged in the business" before the manufacturer's license requirement of section 923(a) applies. Thus, a person who manufactures a firearm will require a manufacturer's license if he/she devotes time, attention, and labor to such manufacture as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured. If the person is performing such services only for a customer on firearms provided by that customer, and is not selling or distributing the firearms manufactured, the person would be a "dealer" as defined by 18 U.S.C. 921(a)(11)(B) and 27 CFR

478.11, requiring a dealer's license, assuming the person is "engaged in the business" as defined in 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11 (i.e., "gunsmithing").

A dealer is "engaged in the business" of gunsmithing, as defined in 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11, when he/she receives firearms (frames, receivers, or otherwise) provided by a customer for the purpose of repairing, modifying, embellishing, refurbishing, or installing parts in or on those firearms. Once the work is completed, the gunsmith returns the firearms, and charges the customer for labor and parts. As with an individual customer, a licensed dealer-gunsmith may receive firearms (properly identified with a serial number and other information required by 27 CFR 478.92) and conduct gunsmithing services for a customer who is a licensed importer or manufacturer.

A dealer-gunsmith is not "engaged in the business" of manufacturing firearms because the firearms being produced are not owned by the dealer-gunsmith, and he/she does not sell or distribute the firearms manufactured. Once the work is completed, the dealer-gunsmith returns the firearms to the importer or manufacturer upon completion of the manufacturing processes, and does not sell or distribute them to any person outside the manufacturing process. Under these circumstances, the licensed dealer-gunsmith is not "engaged in the business" of manufacturing firearms requiring a manufacturer's license.

In contrast, a dealer-gunsmith may make or acquire his/her own firearms, and repair, modify, embellish, refurbish, or install parts in or on those firearms. If the dealer-gunsmith then sells or distributes those firearms for livelihood and profit, the dealer-gunsmith is engaged in his/her own business of manufacturing firearms. A person engaged in the business of manufacturing firearms for sale or distribution is required to be licensed as a manufacturer, identify/mark all firearms manufactured, maintain permanent records of manufacture, submit annual manufacturing reports, and pay any taxes imposed on firearm manufacturers. A licensed dealer-gunsmith who becomes licensed as a manufacturer must also segregate all firearms manufactured for that business separately from firearms for which gunsmithing services are being performed.

The GCA at 18 U.S.C. 923(i) provides, in part, that licensed manufacturers and importers must "identify" each firearm manufactured or imported by a serial number in the manner prescribed by regulation. Federal regulations at 27 CFR 478.92(a)(1) further require importers and manufacturers to identify each firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing the individual serial number and certain additional information - the model (if designated), caliber/gauge, manufacturer's name, and place of origin on the frame, receiver, or barrel - at a minimum depth. Section 478.92(a)(2) specifies that a "firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of ... must be identified as required by this section."

In conclusion, your proposed business of painting customers' firearms for a fee is a lawful manufacturing process; however being engaged in the business of this type of gunsmithing activities requires a Type (01) Federal Firearms License (FFL). To obtain information on obtaining an FFL; please contact your local ATF office of the Federal Firearms Licensing Center (FFLC) with the following contact information:

ATF- FFLC
244 Needy Road
Martinsburg, WV 25405

Phone number: (304) 616-4600

Also, firearm silencers may be painted as a part of the aforementioned gunsmithing activities. However, please be aware, any paint applied to any firearm must not obliterate, alter or prevent the serial number from maintaining the required minimum depth requirement of .003 inches and minimum height of 1/16 inches; thus preventing the serial number from being properly identified through simple manipulation of the firearm. Further, paint applied to an NFA category firearm must not obliterate, remove, change or alter the serial number or other identification in violation of 26 U.S.C. Section 5861(g).

Regarding the use of a Sig Sauer SB15 forearm brace, we have included a copy of the recently published ATF "*Open Letter on the Redesign of Stabilizing Braces*". Also, we have included copies of ATF Rulings: 2009-1, 2009-2 and 2010-10 for your convenience.

We trust the foregoing has been responsive to your concerns. If FTISB can be of any technical further assistance, please contact us.

Sincerely yours,

(b) (6)

Acting Chief, Firearms Technology Industry Services Branch



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

18 U.S.C. 921(a): DEFINITIONS

18 U.S.C. 922(a)(1)(A): LICENSES REQUIRED

18 U.S.C. 923(a): LICENSES REQUIRED

27 CFR 478.11: DEFINITIONS

27 CFR 478.41(a): LICENSES REQUIRED

Any person who engages in an activity or process that primarily adds to or changes a firearm's appearance, by camouflaging a firearm by painting, dipping, or applying tape, or by engraving the external surface of a firearm, does not need to be licensed as a manufacturer under the Gun Control Act. Any person who is licensed as a dealer/gunsmith, and who camouflages or engraves firearms as described in this ruling does not need to be licensed as a manufacturer under the Gun Control Act. Any person who is engaged in the business of camouflaging or engraving firearms as described in this ruling must be licensed as a dealer, which includes a gunsmith, under the Gun Control Act.

ATF Rul. 2009-1

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from Federally licensed manufacturers and dealers/gunsmiths seeking clarification as to whether camouflaging firearms, or cutting designs into firearms by engraving, constitute manufacturing activities that require a manufacturer's license.

Camouflaging refers to a patterned treatment using a variety of different colors that enables a firearm to blend into a particular outdoor environment. This typically involves painting, dipping, or applying a tape over the firearm's wood and/or metal parts.

Engraving firearms is a process in which a decorative pattern is placed on the external metal of a firearm primarily for ornamental purposes. The engraving can be cut by hand or machine, or pressed into the metal. There are other engraving techniques that cut designs into firearms, such as checkering or scalloping.

The Gun Control Act of 1968 (GCA), Title 18, United States Code (U.S.C.), Chapter 44, provides, in part, that no person shall engage in the business of importing, manufacturing, or dealing in firearms until he has filed an application with and received a license to do so from the Attorney General. A "firearm" is defined by 18 U.S.C. 921(a)(3) to include any weapon (including a starter gun) which will or is designed to or may readily be converted

to expel a projectile by the action of an explosive, and the frame or receiver of any such weapon. The term "manufacturer" is defined by 18 U.S.C. 921(a)(10) and 27 CFR 478.11 as any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution. The term "dealer," which includes a gunsmith, is defined by 18 U.S.C. 921(a)(11) and 27 CFR 478.11 to include any person engaged in the business of selling firearms at wholesale or retail, or repairing firearms or making or fitting special barrels, stocks, or trigger mechanisms to firearms.

In Revenue Ruling 55-342, ATF's predecessor agency interpreted the meaning of the terms "manufacturer" and "dealer" for the purpose of firearms licensing under the Federal Firearms Act, the precursor statute to the GCA. It was determined that a licensed dealer could assemble firearms from component parts on an individual basis, but could not engage in the business of assembling firearms from component parts in quantity lots for purposes of sale or distribution without a manufacturer's license. Since then, ATF has similarly and consistently interpreted the term "manufacturer" under the GCA to mean any person who engages in the business of making firearms, by casting, assembly, alteration, or otherwise, for the purpose of sale or distribution.

Performing a cosmetic process or activity, such as camouflaging, that primarily adds to or changes the appearance or decoration of a firearm is not manufacturing. Unlike manufacturing processes that primarily enhance a firearm's durability, camouflaging is primarily cosmetic. Likewise, external engravings are cosmetic in nature and primarily affect only the appearance of a firearm.

Held, any person who engages in an activity or process that primarily adds to or changes a firearm's appearance by camouflaging the firearm by painting, dipping, or applying tape does not need to be licensed as a manufacturer under the Gun Control Act.

Held further, any person who engages in an activity or process that primarily adds to or changes a firearm's appearance by engraving the external surface of the firearm does not need to be licensed as a manufacturer under the Gun Control Act.

Held further, any person who is licensed as a dealer, which includes a gunsmith, and who camouflages or engraves firearms as described in this ruling does not need to be licensed as a manufacturer under the Gun Control Act.

Held further, any person who is engaged in the business of camouflaging or

engraving firearms as described in this ruling must be licensed as a dealer, which includes a gunsmith, under the Gun Control Act.

Date approved: 1-12-09


Acting Director

18 U.S.C. 921(a): DEFINITIONS
18 U.S.C. 922(a)(1)(A): LICENSES REQUIRED
18 U.S.C. 923(a): LICENSES REQUIRED
27 CFR 478.11: DEFINITIONS
27 CFR 478.41(a): LICENSES REQUIRED

Any person who installs "drop in" replacement parts in or on existing, fully assembled firearms does not manufacture a firearm, and does not need to be licensed as a manufacturer under the Gun Control Act. A "drop in" replacement part is one that can be installed in or on an existing, fully assembled firearm without drilling, cutting, or machining. A replacement part, whether factory original or otherwise, has the same design, function, substantially the same dimensions, and does not otherwise affect the manner in which the weapon expels a projectile by the action of an explosive. Any person who is licensed as a dealer, which includes a gunsmith, and who installs "drop in" replacement parts in or on existing, fully assembled firearms as described in this ruling does not need to be licensed as a manufacturer under the Gun Control Act. Any person who is engaged in the business of installing "drop in" replacement parts in or on existing, fully assembled firearms as described in this ruling must be licensed as a dealer, which includes a gunsmith, under the Gun Control Act.

ATF Rul. 2009-2

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from Federally licensed firearms manufacturers and dealers/gunsmiths seeking clarification as to whether installing "drop in" replacement parts in or on existing firearms constitutes a manufacturing activity that requires a manufacturer's license.

Persons may buy "drop in" replacement firearm parts to replace worn or broken original factory parts. Replacement parts, such as barrels, triggers, hammers, and sears have been designed so that they can be dropped in to replace existing parts on fully assembled firearms. A "drop in" replacement part is one that can be installed in or on an existing, fully assembled firearm (not solely a frame or receiver) without drilling, cutting, or machining.

The Gun Control Act of 1968 (GCA), Title 18, United States Code (U.S.C.), Chapter 44, provides, in part, that no person shall engage in the business of importing, manufacturing, or dealing in firearms until he has filed an application with and received a license to do so from the Attorney General. A "firearm" is defined by 18 U.S.C. 921(a)(3) to include any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, and the frame or receiver of any such weapon. The term "manufacturer" is defined by 18 U.S.C. 921(a)(10) and 27 CFR 478.11 as any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution. The term "dealer" is defined by 18 U.S.C. 921(a)(11) and 27 CFR 478.11 to include any person engaged in the business of selling firearms at wholesale or retail, or repairing firearms or making or fitting special barrels, stocks, or trigger mechanisms to firearms.

In Revenue Ruling 55-342, ATF's predecessor agency interpreted the meaning of the terms "manufacturer" and "dealer" for the purpose of firearms licensing under the Federal Firearms Act, the precursor statute to the GCA. It was determined that a licensed dealer could assemble firearms from component parts on an individual basis, but could not engage in the business of assembling firearms from component parts in quantity lots for purposes of sale or distribution without a manufacturer's license. Since then, ATF has similarly and consistently interpreted the term "manufacturer" under the GCA to mean any person who engages in the business of making firearms, by casting, assembly, alteration, or otherwise, for the purpose of sale or distribution. Such persons must have a manufacturer's license under the GCA.

Installing "drop in" parts in or on existing, fully assembled firearms, whether factory original or otherwise, does not result in any alteration to the original firearms so long as they are replacement parts. A replacement part, whether factory original or otherwise, has the same design, function, substantially the same dimensions, and does not otherwise affect the manner in which the weapon expels a projectile by the action of an explosive.

Held, any person who installs "drop in" replacement parts in or on existing, fully assembled firearms does not need to be licensed as a manufacturer under the Gun Control Act.

Held further, a "drop in" replacement part is one that can be installed in or on an existing, fully assembled firearm without drilling, cutting, or machining. A replacement part, whether factory original or otherwise, has the same design, function, substantially the same dimensions, and does not otherwise affect the manner in which the weapon expels a projectile by the action of an explosive.

Held further, any person who is licensed as a dealer, which includes a gunsmith, and who installs "drop in" replacement parts in or on existing, fully assembled firearms as described in this ruling does not need to be licensed as a manufacturer under the Gun Control Act.

Held further, any person who is engaged in the business of installing "drop in" replacement parts in or on existing, fully assembled firearms as described in this ruling must be licensed as a dealer, which includes a gunsmith, under the Gun Control Act.

Date approved: January 12, 2009

Michael J. Sullivan
Acting Director



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

18 U.S.C. 921(a): DEFINITIONS

18 U.S.C. 922(a)(1)(A): LICENSES REQUIRED

18 U.S.C. 923(a): LICENSES REQUIRED

18 U.S.C. 923(i): IDENTIFICATION OF FIREARMS

27 CFR 478.11: DEFINITIONS

27 CFR 478.41(a): LICENSES REQUIRED

27 CFR 478.92: IDENTIFICATION OF FIREARMS

Any person licensed as a dealer-gunsmith who repairs, modifies, embellishes, refurbishes, or installs parts in or on firearms (frames, receivers, or otherwise) for, or on behalf of a licensed importer or licensed manufacturer, is not required to be licensed as a manufacturer under the Gun Control Act, provided the firearms for which such services are rendered are: (1) not owned, in whole or in part, by the dealer-gunsmith; (2) returned by the dealer-gunsmith to the importer or manufacturer upon completion of the manufacturing processes, and not sold or distributed to any person outside the manufacturing process; and (3) already properly identified/marked by the importer or manufacturer in accordance with Federal law and regulations.

ATF Rul. 2010-10

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from firearms industry members asking whether licensed dealer-gunsmiths who would be engaged in the business of repairing, modifying, embellishing, refurbishing, or installing parts in or on firearms for, or on behalf of a licensed importer or manufacturer are required to be licensed as manufacturers and abide by the requirements imposed on manufacturers.

In recent years, licensed firearms importers and manufacturers have contracted certain firearms manufacturing activities on their behalf to specialized licensed firearms manufacturers. Such activities include applying special coatings and treatments to firearms (e.g., bluing, anodizing, powder-coating, plating, polishing, heat/chemical treating). This has caused confusion over which importers and manufacturers are required to identify/mark firearms and maintain permanent records of importation or manufacture. For this reason, licensed importers and manufacturers have asked whether licensed dealer-gunsmiths, who are not required to mark firearms and keep production records, may engage in such manufacturing activities on their behalf.

The Gun Control Act of 1968 (GCA), Title 18, United States Code (U.S.C.), section 923(a), provides, in part, that no person shall engage in the business of importing, manufacturing, or dealing in firearms until he has filed an application with and received a license to do so from the Attorney General. A "firearm" is defined by 18 U.S.C. 921(a)(3) to include any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, and the frame or receiver of any such weapon. The term "manufacturer" is defined by 18 U.S.C. 921(a)(10) as any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution. As applied to a manufacturer of firearms, the term "engaged in the business" is defined by 18 U.S.C. 921(a)(21)(A) and 27 CFR 478.11, as a "person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured." The term "dealer" is defined by 18 U.S.C. 921(a)(11)(B) and 27 CFR 478.11 to include "any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms ..." (*i.e.*, a gunsmith). As applied to a gunsmith, the term "engaged in the business" is defined by 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11 as a "person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit ..."

In Revenue Ruling 55-342 (C.B. 1955-1, 562), ATF's predecessor agency interpreted the meaning of the terms "manufacturer" and "dealer" for the purpose of firearms licensing under the Federal Firearms Act, the precursor statute to the GCA. It was determined that a licensed dealer could assemble firearms from component parts on an individual basis, but could not engage in the business of assembling firearms from component parts in quantity lots for purposes of sale or distribution without a manufacturer's license. Since then, ATF has similarly and consistently interpreted the term "manufacturer" under the GCA to mean any person who engages in the business of making firearms, by casting, assembly, alteration, or otherwise, for the purpose of sale or distribution. Such persons must have a manufacturer's license under the GCA, maintain permanent records of manufacture, and submit annual manufacturing reports. The Revenue Ruling did not address whether dealer-gunsmiths who engage in the business of repairing, modifying, embellishing, refurbishing, or installing parts in or on firearms for, or on behalf of an importer or manufacturer are engaged in the business of manufacturing firearms requiring a manufacturer's license.

Manufacturing

ATF's long-standing position is that any activities that result in the making of firearms for sale or distribution, to include installing parts in or on firearm frames and receivers, and processes that primarily enhance a firearm's durability, constitute firearms manufacturing that may require a manufacturer's license. In contrast, some activities are not firearms manufacturing processes, and do not require a manufacturer's license. For example, ATF Ruling 2009-1 (approved January 12, 2009) explained that performing a cosmetic process or activity, such as camouflaging or engraving, that primarily adds to or changes the appearance or decoration of a firearm is not manufacturing. Likewise, ATF Ruling 2009-2

(approved January 12, 2009) stated that installing "drop-in" replacement parts in or on existing, fully assembled firearms does not result in any alteration to the original firearms. Persons engaged in the business of these activities that do not constitute firearms manufacturing need only obtain a dealer's license.

Although installing parts in or on firearms, and applying special coatings and treatments to firearms are manufacturing activities, the definition of "manufacturer" in 18 U.S.C. 921(a)(10) and 27 CFR 478.11 also requires that a person be "engaged in the business" before the manufacturer's license requirement of section 923(a) applies. Thus, a person who manufactures a firearm will require a manufacturer's license if he/she devotes time, attention, and labor to such manufacture as a regular course of trade or business with the principal objective of livelihood and profit **through the sale or distribution of the firearms manufactured**. If the person is performing such services only for a customer on firearms provided by that customer, and is not selling or distributing the firearms manufactured, the person would be a "dealer" as defined by 18 U.S.C. 921(a)(11)(B) and 27 CFR 478.11, requiring a dealer's license, assuming the person is "engaged in the business" as defined in 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11 (*i.e.*, "gunsmithing").

Gunsmithing

A dealer is "engaged in the business" of gunsmithing, as defined in 18 U.S.C. 921(a)(21)(D) and 27 CFR 478.11, when he/she receives firearms (frames, receivers, or otherwise) provided by a customer for the purpose of repairing, modifying, embellishing, refurbishing, or installing parts in or on those firearms. Once the work is completed, the gunsmith returns the firearms, and charges the customer for labor and parts. As with an individual customer, a licensed dealer-gunsmith may receive firearms (properly identified with a serial number and other information required by 27 CFR 478.92) and conduct gunsmithing services for a customer who is a licensed importer or manufacturer. A dealer-gunsmith is not "engaged in the business" of manufacturing firearms because the firearms being produced are not owned by the dealer-gunsmith, and he/she does not sell or distribute the firearms manufactured. Once the work is completed, the dealer-gunsmith returns the firearms to the importer or manufacturer upon completion of the manufacturing processes, and does not sell or distribute them to any person outside the manufacturing process. Under these circumstances, the licensed dealer-gunsmith is not "engaged in the business" of manufacturing firearms requiring a manufacturer's license.

In contrast, a dealer-gunsmith may make or acquire his/her own firearms, and repair, modify, embellish, refurbish, or install parts in or on those firearms. If the dealer-gunsmith then sells or distributes those firearms for livelihood and profit, the dealer-gunsmith is engaged in his/her own business of manufacturing firearms. A person engaged in the business of manufacturing firearms for sale or distribution is required to be licensed as a manufacturer, identify/mark all firearms manufactured, maintain permanent records of manufacture, submit annual manufacturing reports, and pay any taxes imposed on firearm manufacturers. A licensed dealer-gunsmith who becomes licensed as a manufacturer must

also segregate all firearms manufactured for that business separately from firearms for which gunsmithing services are being performed.

To facilitate inspection and ensure that ATF can determine that a licensed dealer-gunsmith is not engaged in the business of manufacturing firearms for his own sale or distribution without a manufacturer's license, licensees may take the following steps:

- (1) maintain a copy of the current, active license of all contracted licensees;
- (2) maintain a copy of the contract and all instructions for gunsmithing services rendered;
- (3) maintain a copy of the invoices for gunsmithing services;
- (4) timely and accurately reflect all firearms acquisitions and dispositions consistent with the contract for gunsmithing services rendered; and
- (5) in the case of a licensed dealer-gunsmith, maintain required bound acquisition and disposition records for all gunsmithing activities separate from other dealer's records.

Unless licensees take these steps, ATF may presume that a particular dealer-gunsmith is engaged in his own business of manufacturing firearms for sale or distribution without a manufacturer's license, and take corrective administrative or other enforcement action.

Identification of Firearms

The GCA at 18 U.S.C. 923(i) provides, in part, that licensed manufacturers and importers must "identify" each firearm manufactured or imported by a serial number in the manner prescribed by regulation. Federal regulations at 27 CFR 478.92(a)(1) further require importers and manufacturers to identify each firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing the individual serial number and certain additional information - the model (if designated), caliber/gauge, manufacturer's name, and place of origin on the frame, receiver, or barrel - at a minimum depth. Section 478.92(a)(2) specifies that a "firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of ... must be identified as required by this section."

Because dealer-gunsmiths are not required to identify firearms manufactured, it is incumbent upon the importer or manufacturer, prior to shipping firearms to a dealer-gunsmith for gunsmithing services, to mark them with a serial number and other required information. With regard to frames and receivers shipped separately, section 478.92(a)(2) provides, in part, that the manufacturer or importer must mark all frames and receivers prior to shipment with all information required by section 478.92 (*i.e.*, serial number, model (if designated), caliber/gauge, manufacturer's name, and place of origin). This will ensure that the frames and receivers can be traced by ATF in the event they are lost or stolen during the manufacturing process.

Held, any person licensed as a dealer-gunsmith who repairs, modifies, embellishes, refurbishes, or installs parts in or on firearms (frames, receivers, or otherwise) for, or on behalf of a licensed importer or licensed manufacturer, is not required to be licensed as a

manufacturer under the Gun Control Act, *provided* the firearms for which such services are rendered are: (1) not owned, in whole or in part, by the dealer-gunsmith; (2) returned by the dealer-gunsmith to the importer or manufacturer upon completion of the manufacturing processes, and not sold or distributed to any person outside the manufacturing process; and (3) already properly identified/marked by the importer or manufacturer in accordance with Federal law and regulations.

This ruling is limited to an interpretation of the requirements imposed upon importers, manufacturers, and dealer-gunsmiths under the Gun Control Act of 1968, and does not apply to persons making or manufacturing firearms subject to the National Firearms Act, 26 U.S.C. 5801 *et. seq.*

Revenue Ruling 55-342, C.B. 1955-1, 562, is hereby clarified. To the extent this ruling may be inconsistent with any prior letter rulings, they are hereby superseded.

Date approved: December 27, 2010



Acting Director