



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Firearms Technology Industry Services Branch

Martinsburg, WV

www.atf.gov

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Dear (b) (6)

This refers to your correspondence to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB). Specifically, you requested information regarding an AR-15 type pistol, the SIG Stabilizing Brace, and customizations to the AR-15 pistol.

As background, the amended Gun Control Act of 1968, 18 U.S.C. § 921(a)(3), defines the term "firearm" to include *any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive...[and] ...the frame or receiver of any such weapon....*

Also, with respect to the definitions of "handgun" and "pistol" under Federal statutes and regulations, you may be aware that the GCA, 18 U.S.C. § 921(a)(29), defines "handgun" to mean, in part: *...a firearm which has a short stock and is designed to be held and fired by the use of a single hand....*

Additionally, 27 CFR § 478.11, a regulation implementing the National Firearms Act (NFA), defines "pistol" as:

...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).

Further, the GCA, 18 U.S.C. § 921(a)(7) defines the term "rifle" as follows:

...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.

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As well, the GCA, 18 U.S.C. § 921(a)(8), defines "short-barreled rifle" to mean "...a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches...."

In addition, the NFA, 26 U.S.C. § 5845(a), defines "firearm," to include... a (3) *a rifle having a barrel or barrels of less than 16 inches in length* and (5) "any other weapon" as defined in subparagraph (e)

Finally, the NFA, 26 U.S.C. § 5845(e), defines "any other weapon" as... *Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.*

Your specific questions are in italics below, followed by FTISB's response to each:

Q1) If I use a virgin/stripped lower receiver (or one classified as a pistol), that has never been assembled as a rifle, to assemble a firearm with a rifled barrel length less than 16 inches and the receiver has a buffer tube NOT capable of readily accepting a stock - is this assembly of an "AR15 type pistol" subject to NFA regulation?

A1) An AR-type receiver that has never been assembled as a rifle may be utilized in the manufacture of a pistol. Your first step should be to obtain certification from the manufacturer of the receiver(s) verifying that it has never been assembled in a rifle configuration. *We caution that manufacturing a pistol from a receiver previously completed in rifle configuration could constitute manufacturing an item classified as a "weapon made from a rifle" under the NFA, and the firearm would be subject to NFA controls.* The firearm that you describe in your question is a GCA firearm, but is not an NFA firearm provided you do not shoulder the receiver extension "buffer tube." Please note, however, that possessing a compatible buttstock that could readily be installed on your pistol could constitute possession of a "short-barreled rifle."

Q2) With the above question in mind, would this "AR pistol" (as designed above) legally be classified as a pistol/handgun?

A2) The above described GCA firearm is a "pistol" or "handgun" as defined.

Q3) Would placing rubber or plastic rail guards on the "AR pistol" change its classification?

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A3) No, provided you do not install a vertical fore grip or forward pistol grip.

Q4) *Would wrapping paracord all the way around the buffer tube, to protect it from scratching and for decoration [change] the classification of the firearm? This would essentially serve the same purpose as the foam sleeves that are currently on the market.*

A4) No, this would not change the classification.

Q5) *If I'm not mistaken, purposely shouldering the buffer tube would essentially count as a "redesign" and the weapon would be subject to NFA registration, correct? What if I unintentionally shoulder the buffer tube?*

A5) Please refer to the enclosed "Open Letter on the Redesign of Stabilizing Braces."

Q6) *Since it is common knowledge that pistols are generally fired using both hands to hold the firearm, is it legal to hold the AR pistol with two hands (i.e. by the rail, magazine well, the pistol grip, etc) while firing?*

A6) 27 CFR § 479.11, a regulation implementing the NFA, defines the term "Pistol" as—

...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).

Q7) *A previous ATF letter from 2010 (3311/2010-1021) has stated that installation of the Magpul AFG (Angled Fore-Grip) is lawful and does not change the classification. Is this still correct?*

A7) Adding a MAGPUL AFG to a pistol would not constitute the making of an AOW. We caution that if an individual attaches a vertical forward grip or forward pistol grip to a pistol, the pistol is no longer designed to be held and fired by the use of a single hand; thus, it cannot qualify as a "handgun" or "pistol" as defined above in Federal statutes and regulations. Additionally, because it is no longer a pistol, it is not exempt from classification as an AOW pursuant to § 5845(e). A firearm of this type is properly classified an AOW if its overall length is less than 26 inches, or if it is actually concealed on the person. Conversely, it would not be subject to the NFA/AOW classification provided its overall length is at least 26 inches and it is not actually concealed on the person.

Q8) *Reference to a previous ATF letter in 2014 (3311/302787) in reply to Alan Thordsen of Thordsen Customs, LLC in reference to their "cheek saddles" that slide over the buffer tube (specifically the Command Arms SST1 type). The stance taken by the ATF was that installation of the saddle and usage as intended did NOT change the classification of an AR type pistol. Is this stance, that cheek saddles are lawful, still valid?*

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A8) Yes, cheek rests are lawful if they are used as intended.

Q9) *Reference to a previous letter from the ATF in 2011 (3311/2011-938) in reply to a request made by "The Mako Group" in reference to one of their products called the "Magazine Well Adaptor" or "MWG". The stance taken was that it does not change the classification of an AR-type Pistol. Is this stance, that installation of the MWG is lawful, still valid?*

A9) Use of the "MWG" will not change the classification of the pistol.

Q10) *Referencing the SIG Brace "Open Letter" from January 2015. I understand the letter and what it is saying. But what if I accidentally shoulder the firearm with the SIG Brace installed? I mean, guns recoil and move about; it would be easy for it to move backwards into your shoulder if it isn't strapped in correctly. I ask because I want to ensure that I don't have the possibly of breaking the law, even if on accident.*

A10) Use of a stabilizing brace, as designed, should preclude accidental shouldering of the weapon.

Q11) *Can I legally own an AR15-type rifle with a removable stock/buffer tube AND the AR-type pistol; so long as I do not intend to remove the stock, change the buffer tubes out, and install the stock on the AR pistol?*

A11) Yes, an AR-15 type shoulder stock should correspond to a complete firearm of lawful configuration. For example, possession of such a shoulder stock would generally be lawful if possessed in conjunction with an AR-15 type rifle or a lawfully registered short barreled rifle (SBR), and not aggregated or configured as an unregistered NFA firearm.

Q12) *Lastly with regard to the AR-type pistol, if I decide I want to put an actual stock on it, I fill out the required forms and pay the respective tax stamp, etc. This AR Pistol will now be classified as a "short barrel rifle." If I remove the stock, and put the original buffer tube not capable of accepting the stock, does it return to "pistol" classification or is it still considered an NFA firearm?*

A12) You must first receive ATF approval before placing the stock on the pistol. If you remove the stock, the weapon would still be registered with the NFA. You can request that the weapon be removed once the offending feature is removed from the weapon.

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We thank you for your inquiry and trust the foregoing has been responsive to your questions.

Sincerely yours,

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Chief, Firearms Technology Industry Services Branch

Enclosure: Open Letter on the Redesign of Stabilizing Braces.

OPEN LETTER ON THE REDESIGN OF "STABILIZING BRACES"

The Firearms and Ammunition Technology Division (FATD), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from the public concerning the proper use of devices recently marketed as "stabilizing braces." These devices are described as "a shooter's aid that is designed to improve the single-handed shooting performance of buffer tube equipped pistols." The device claims to enhance accuracy and reduce felt recoil when using an AR-style pistol.

These items are intended to improve accuracy by using the operator's forearm to provide stable support for the AR-type pistol. ATF has previously determined that attaching the brace to a firearm does not alter the classification of the firearm or subject the firearm to National Firearms Act (NFA) control. However, this classification is based upon the use of the device as designed. When the device is redesigned for use as a shoulder stock on a handgun with a rifled barrel under 16 inches in length, the firearm is properly classified as a firearm under the NFA.

The NFA, 26 USCS § 5845, defines "firearm," in relevant part, as "a shotgun having a barrel or barrels of less than 18 inches in length" and "a rifle having a barrel or barrels of less than 16 inches in length." That section defines both "rifle" and "shotgun" as "a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder..." (Emphasis added).

Pursuant to the plain language of the statute, ATF and its predecessor agency have long held that a pistol with a barrel less than 16 inches in length and an attached shoulder stock is a NFA "firearm." For example, in Revenue Ruling 61-45, Luger and Mauser pistols "having a barrel of less than 16 inches in length with an attachable shoulder stock affixed" were each classified as a "short barrel rifle...within the purview of the National Firearms Act."

In classifying the originally submitted design, ATF considered the objective design of the item as well as the stated purpose of the item. In submitting this device for classification, the designer noted that

The intent of the buffer tube forearm brace is to facilitate one handed firing of the AR15 pistol for those with limited strength or mobility due to a handicap. It also performs the function of sufficiently padding the buffer tube in order to reduce bruising to the forearm while firing with one hand. Sliding and securing the brace onto ones forearm and latching the Velcro straps, distributes the weight of the weapon evenly and assures a snug fit. Therefore, it is no longer necessary to dangerously "muscle" this large pistol during the one handed aiming process, and recoil is dispersed significantly, resulting in more accurate shooting without compromising safety or comfort.

In the classification letter of November 26, 2012, ATF noted that a "shooter would insert his or her forearm into the device while gripping the pistol's handgrip-then tighten the Velcro straps for additional support and retention. Thus configured, the device provides the shooter with additional support of a firearm while it is still held and operated with one hand." When strapped to the wrist and used as designed, it is clear the device does not allow the firearm to be fired from the shoulder. Therefore, ATF concluded that, pursuant to the information provided, "the device

is not designed or intended to fire a weapon from the shoulder.” In making the classification ATF determined that the objective design characteristics of the stabilizing brace supported the stated intent.

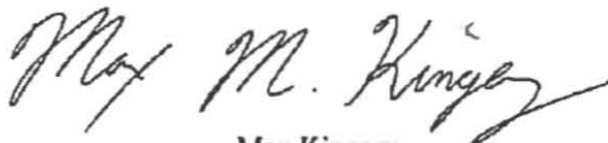
ATF hereby confirms that if used as designed—to assist shooters in stabilizing a handgun while shooting with a single hand—the device is not considered a shoulder stock and therefore may be attached to a handgun without making a NFA firearm. However, ATF has received numerous inquiries regarding alternate uses for this device, including use as a shoulder stock. Because the NFA defines both rifle and shotgun to include any “weapon designed or *redesigned*, made or *remade*, and *intended to be fired from the shoulder*,” any person who *redesigns* a stabilizing brace for use as a shoulder stock makes a NFA firearm when attached to a pistol with a rifled barrel under 16 inches in length or a handgun with a smooth bore under 18 inches in length.

The GCA does not define the term “redesign” and therefore ATF applies the common meaning. “Redesign” is defined as “to alter the appearance or function of.” See e.g. Webster’s II New College Dictionary, Third Ed. (2005). This is not a novel interpretation. For example ATF has previously advised that an individual possesses a destructive device when possessing anti-personnel ammunition with an otherwise unregulated 37/38mm flare launcher. See ATF Ruling 95-3. Further, ATF has advised that even use of an unregulated flare and flare launcher as a weapon results in the making of a NFA weapon. Similarly, ATF has advised that, although otherwise unregulated, the use of certain nail guns as weapons may result in classification as an “any other weapon.”

The pistol stabilizing brace was neither “designed” nor approved to be used as a shoulder stock, and therefore use as a shoulder stock constitutes a “redesign” of the device because a possessor has changed the very function of the item. Any individual letters stating otherwise are contrary to the plain language of the NFA, misapply Federal law, and are hereby revoked.

Any person who intends to use a handgun stabilizing brace as a shoulder stock on a pistol (having a rifled barrel under 16 inches in length or a smooth bore firearm with a barrel under 18 inches in length) must first file an ATF Form 1 and pay the applicable tax because the resulting firearm will be subject to all provisions of the NFA.

If you have any questions about the issues addressed in this letter, you may contact the Firearms and Ammunition Technology Division at fire_tech@atf.gov or by phone at (304) 616-4300.



Max Kingery
Acting Chief

Firearms Technology Criminal Branch
Firearms and Ammunition Technology Division