



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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This refers to your correspondence to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB), which accompanied your submitted sample of a pistol bicep brace. Specifically, you requested an evaluation and classification regarding the installation of this sample on an AR-type pistol under the National Firearms Act (NFA).

As background, the amended Gun Control Act of 1968 (GCA), 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...”

18 U.S.C. § 921(a)(7), defines “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.”

Also, with respect to the definitions of “handgun” 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...”

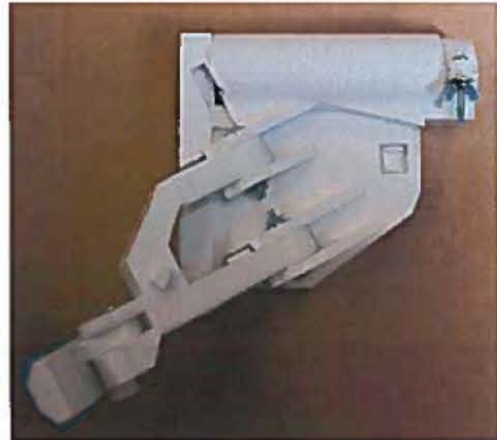
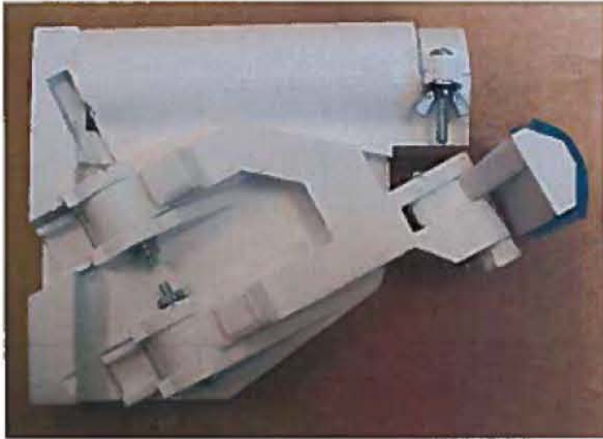
Additionally, 27 CFR § 478.11, a regulation implementing the GCA, defines “pistol” as “...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, 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).”

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Further, the NFA, 26 U.S.C. § 5845(a), defines the term “**firearm**” to include ...*(3) a rifle having a barrel or barrels of less than 16 inches in length...*

The FTISB findings based on our examination of the submitted sample (photos below) is as follows:

Submitted Sample: Bicep pistol brace



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The submitted sample attaches directly to a standard AR-type Mil-spec buffer tube. The stated purpose is to serve as a “bicep brace” providing stability while firing an AR-type pistol with one hand.

When determining a classification for a submitted item under Federal law, ATF considers the manufacturer’s purported use of the item. Note, however, while the manufacturer’s stated intent for the item may be useful in classifying that item, the objective design characteristics must support this use. To rely exclusively on a manufacturer’s assertion would permit manufacturers to market devices under their own classification, whether or not they may have an alternate use; simply by claiming that they are neither designed nor intended for such use. Classifications based solely on the stated intent of the manufacturer would create a ludicrous result: Federal regulation of only those items the manufacturer wanted to market as such, leaving other items completely unregulated.

The stated intent of the submitted sample is to serve as a “bicep brace” providing stability while firing an AR-type pistol with one hand. The design of the sample allows it to be folded into a compact configuration which resembles an AR-type shoulder stock. In your correspondence you state that firing an AR-type pistol while using your sample as a shoulder stock would “cause discomfort,” FTISB found using it in this manner to be much more comfortable than shooting it as a “bicep brace.”

FTISB finds that more likely the item’s true purpose would be use as a shoulder stock for an AR-type pistol. Additionally, attaching the submitted sample to a pistol having a barrel less than 16 inches in length would result in that firearm no longer qualifying as a “**handgun**” or “**pistol**” as defined above. The resulting combination of pistol and stock would meet the definition of a “**rifle**” in that it would be a “**weapon designed to be fired from the shoulder.**” In use the resulting firearm would be classified as a short-barreled rifle and a “**firearm**” as defined in the NFA, 26 U.S.C. § 5845(a)(3). Further, mere possession of the item with a compatible firearm would constitute possession of an NFA firearm.

We caution that these findings are based on the sample as submitted. If the design, dimensions, configuration, method of operation, or materials used were changed, this classification would be subject to review.

To facilitate the return of the submitted sample, please provide FTISB with a prepaid FedEx or similar return shipping label. For your convenience, this can be emailed to fire_tech@atf.gov and should reference #305919. Please provide the return shipping label within 60 days of receipt of this letter or the samples will be considered abandoned and disposed of in accordance with the needs of the Federal Government.

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

Sincerely yours,

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Chief, Firearms Technology Industry Services Branch