



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405

www.atf.gov

MAY 01 2018

907010 (b) (6)
3311/308256

(b)(3)-(26 USC 6103), (b) (6)

Dear (b) (6)

This refers to your correspondence submitted to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB) inquiring about the classification of a (b)(3)-(26 USC 6103) with an item which you describe as a folding "cheek rest" (see enclosed photos).

You state that this item when installed, "takes the place of the stock" and because the former host (b)(3)-(26 USC 6103) pistol only utilizes a red dot sight, the cheek rest is designed to "have the operators face close to the red dot sight for proper aiming use". Specifically, you requested an evaluation and classification of the submitted weapon with the "cheek rest" attached, under the Gun Control Act of 1968 (GCA) and the National Firearms Act of 1934 (NFA).

For your reference in this matter, the 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...[or]...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 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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Please note also that the GCA, 18 U.S.C. § 921(a)(7) defines the term “**rifle**” to include *a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder*

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

The submitted sample is described below:

Left side

(b)(3)-(26 USC 6103)

Right side

(b)(3)-(26 USC 6103), (b) (6)

On slide

(b)(3)-(26 USC 6103)

On barrel

(b)(3)-(26 USC 6103)

Bottom of frame

(b)(3)-(26 USC 6103)

FTISB maintains that “length of pull” is a measurement found on shoulder-fired weapons, generally measured from the center of the trigger to the center of the buttplate/buttstock. FTISB research has determined the average length of pull found on shoulder-fired weapons is approximately 13.5-14.5 inches. FTISB personnel found that the submitted sample incorporates a maximum length of pull of approximately (b) (4) inches.

You should also be aware that the ATF has concluded that attaching a stabilizing brace or cheek rest to a handgun alone, does not “make” a NFA weapon. However, if the shooter/possessor takes affirmative steps to configure an accessory for use as a shoulder-stock - for example, configuring the a brace or cheek rest so as to permanently affix it to the end a pistol, (thereby creating a length that has no other purpose than to facilitate its use as a stock), removing the arm-

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strap, or otherwise undermining its ability to be used as a brace or a cheek rest – and then in fact shoots the firearm from the shoulder using the accessory as a shoulder stock, that person has objectively “redesigned” the firearm for purposes of the NFA. This conclusion is not based upon the mere fact that the firearm was fired from the shoulder at some point.

Our Branch has determined pistol braces and cheek rests are an accessory that assists in the supporting and operating of handguns which are generally large and heavy, such as AR, AK, FAL, CZ BREN/Scorpion and HK91/93-type semiautomatic pistols.

FTISB research has found such firearm accessories are not accessories normally used in conjunction with revolvers, single-shot pistols and standard sized semiautomatic pistols such as 1911 or Glock-type handguns. The previously mentioned handguns, as well as Smith & Wesson J-frame revolvers, Kel-tec P3ATs, Ruger LCPs and Beretta Model 21A-type pistols are generally too small to necessitate the use of a pistol brace or cheek rest.

As received, the Tech Smith Manufacturing brand, “Cheek rest” is a firearm accessory not regulated by the GCA or NFA. The submitted weapon with this folding “cheek rest” attached, having a length of pull of approximately (b) (4) inches is a “firearm” as defined in 26 U.S.C. § 5845(a)(3).

Please be aware, that a weapon which is 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 is classified as a “rifle” as defined in the GCA, 18 U.S.C. § 921(a)(7).

FTISB personnel have determined the item described above is a redesign of a (b)(3)-(26 USC 6103) (b)(3)-(26 USC 6103) folding buttstock assembly. We noted this cheek rest is attached to the frame of the host pistol utilizing the same attachment point and overall length as a (b)(3)-(26 USC 6103) (b)(3)-(26 USC 6103). Further, the cheek rest is secured in the folded position at the same attachment point at the right front of the weapon.

Our Branch has determined that the submitted assembly essentially incorporates an item based off the (b)(3)-(26 USC 6103) folding buttstock design and not an original cheek rest design. As a result of these findings, FTISB has classified the submitted assembly as a buttstock, a component found on shoulder-fired weapons such as rifles and shotguns.

Please be aware, that the attachment of the submitted folding “cheek rest” to any pistol having a barrel length of less than 16 inches, would be the making of a “firearm” as defined in NFA, 26 U.S.C. § 5845(a)(3). Such a making is unlawful unless first submitting and securing approval of an ATF Form 1, *Application to Make and Register a Firearm*, and pay the applicable \$200 making tax.

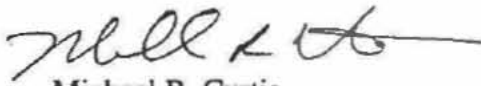
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Please advise our Branch within 60 days of receipt of this letter regarding the disposition of this firearm. The subject rifle which is classified as a "firearm" as defined in 26 U.S.C. § 5845(a)(3), cannot be returned to you unless you are a licensed firearms manufacturer who has paid the Special Occupational Tax (SOT). Please be aware that the manufacture and distribution of a weapon described in this correspondence must comply with all provisions of the GCA and NFA, including 26 U.S.C. § 5842.

FTISB cautions that these findings for the submitted ^{(b) (7)(F), (b) (7)(G), (b) (7)(H)} firearm parts are based on the sample as submitted. If the design, dimensions, configuration, method of operation, materials used were changed, removed or added, this classification would be subject to review and a sample must be submitted to our Branch for a physical examination.

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

Sincerely yours,



Michael R. Curtis

Chief, Firearms Technology Industry Services Branch

Enclosure

(b)(3)-(26 USC 6103), (b) (6)



(b)(3)-(26 USC 6103), (b) (6)



B&T USW A1

(b)(3)-(26 USC 6103), (b) (4)



Length of Pull Approximately (b) (4) Inches

(b)(3)-(26 USC 6103), (b) (4)



Comparison of Cheek Rest and Buttstock Folded

Submitted Sample

Image from (b)(3)-(26 USC 6103)

(b)(3)-(26 USC 6103), (b) (6)

Comparison of Cheek Rest and Buttstock Un-Folded

Submitted Sample

Image from (b)(3)-(26 USC 6103)

(b)(3)-(26 USC 6103), (b) (6)

