

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405

www.atf.gov

DEC 27 2013

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Dear [REDACTED]

This is in reply to your correspondence received August 29, 2013, by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), ATF Firearms Technology Branch (FTB), Martinsburg, West Virginia. In your letter, you ask numerous questions on various firearms-related topics which are paraphrased and italicized below preceding our responses.

***Question 1:** With regard to an article entitled "Straw Purchases" of Firearms from the 1992 FFL newsletter, what paperwork requirements are involved in the gifting of firearms?*

Answer 1: For your information, the primary responsibility of FTB is in the area of classification and evaluation of firearms for ATF and the Federal Government. If you have questions regarding purchase regulations, we recommend contacting your local ATF Industry Operations representatives or Firearms Industry Programs Branch (FIPB) located at ATF Headquarters, Washington, D.C.

***Q2:** Concerning an ATF open letter, "Adding a Vertical Fore Grip to a Handgun," can individuals retain possession of their pistols while a manufacture files a Notice to Manufacture a Firearm (Form 2)?*

A2: No, a firearm that is being manufactured and documented as in possession of the manufacturer could not be in the possession of the original owner concurrently.

***Q3 through Q8:** If a standard semi-automatic AR15 rifle with a 16-inch or greater barrel has the bolt and bolt carrier replaced with a M16 bolt and bolt carrier, safety selector replaced with an M16 safety selector, the hammer replaced with an M16 hammer, the trigger replaced with an M16 trigger, the disconnecter replaced with an*

M16 disconnecter, or any combination of the above modifications, (still limiting the firearm to only safe or semiautomatic), would it change the legality or classification of the weapon?

A3 through A8: ATF has previously addressed the use of M16 machinegun fire-control components in AR-15 type rifles in the General Information section of the *Federal Firearms Regulations Reference Guide* (ATF P 5300.4). (Please refer to the General Information section, Item #2: "Important Information Concerning AR-15 Type Rifles.") Also, we would like to direct your attention to a particular paragraph of Item #2, which states the following:

In order to avoid violations of the...[National Firearms Act], M16 hammers, triggers, disconnectors, selectors and bolt carriers must not be used in assembly of AR-15 type semiautomatic rifles, unless the M16 parts have been modified to AR-15 Model SP1 configuration. Any AR-15 type rifles which have been assembled with M16 internal components should have those parts removed and replaced with AR-15 Model SP1 type parts which are available commercially. The M16 components also may be modified to AR-15 Model SP1 configuration.

While it would not be unlawful, FTB recommends against the installation of M16 fire-control components, and with respect to the conclusions presented in the passage cited above, our Branch cannot specifically authorize you to install M16 fire-control components into an AR-15 rifle. Also, we cannot definitively tell you that installing M16 fire-control components in an AR-15 will cause that firearm to fire automatically.

However, FTB can advise that if this installation were to create a firearm that fires automatically, it would be a *machinegun* as defined; conversely, if it did not result in the creation of a weapon that shoots automatically, it would be lawful to possess and make.

Q9: *If a standard semiautomatic AR15 rifle with a 16-inch or greater barrel had a complete M16 trigger group inserted including a sear, yet it lacked a gas port and lacked a gas tube, so that the firearm can be operated similar to a "trench shotgun" style trigger, where the trigger can be pressed and held, and one round is fired after cycling the charging handle each time, would it legally change the classification of the weapon?*

A9: An AR15 pattern receiver drilled to accept a machinegun sear would meet the definition of machinegun found below. The ability to accept a machinegun sear is a critical feature of an AR15/M16-type machinegun receiver.

The NFA, 26 U.S.C. § 5845(b), defines "**machinegun**" as—

"...any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into

a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.”

Q10: *If an unlicensed individual legally owns a registered machinegun, can he possess two additional complete replacements of fully automatic trigger group parts sets?*

A10: Yes; unless the fully automatic trigger group is classified as a machinegun, in which case it would need to be registered lawfully to possess (Please refer to the definition found on the previous page regarding conversion parts).

Q11: *If an unlicensed individual legally owns a registered fully automatic AR-15/M16 machinegun and other non-NFA semiautomatic AR15s, can he possess one additional complete safe/semi/auto replacement trigger group part set including a sear, and one additional complete safe/semi/tri-burst replacement trigger group parts set including a sear?*

A11: Yes.

Q12: *If an unlicensed individual inserts a rifled sub-caliber device to convert a 26.5mm flare launcher without a shoulder stock, so that it can fire 22lr, would it change the legality or classification of the flare gun?*

A12: Yes, the item would then be classified as a “pistol.”

Q13: *If an unlicensed individual inserts a rifled sub-caliber device to convert a 37mm flare launcher without a shoulder stock, so that it can fire 12 gauge shotgun shells, would it change the legality or classification of the flare gun?*

A14: Yes, the item would then be classified as a “firearm.” Additional characteristics would dictate a more specific classification. FTB would caution that the resulting “firearm” would likely be classified as a Destructive Device, requiring additional NFA provisions.

Q15: *Can an unlicensed individual legally build or modify an AR15 semiautomatic rifle so it has 3 triggers and 1 barrel, which would allow an operator to pull each trigger in succession, and each time a trigger is pulled a round would be fired from the barrel?*

A15: Possibly; the design you describe would indicate three separate trigger functions. However; an official determination cannot be made without a physical sample being submitted to FTB.

Q16: *Can an unlicensed individual legally build or modify an AR15 semiautomatic rifle so it has 1 trigger and 3 barrels, which would allow an operator to pull the trigger causing a round in each barrel to be fired simultaneously?*

A16: Yes, as with volley guns, this configuration is legal as long as there are no other offending features present (i.e. length, lack of rifling in bore, automatic fire etc.). A

trigger pull resulting in one shot occurring from multiple barrels would be legal. Following firing, the trigger must then reset to fire subsequent shots.

Q17: *Can an unlicensed individual legally build or modify an AR15 semiautomatic rifle so it has 1 trigger and 3 barrels, which would allow the operator to pull the trigger back and causes a round to be fired at 3 different distances the trigger is pulled?*

A17: ATF has consistently taken the position that manually operated “pull-release” triggers result in a firearm which fires one shot for each function of the trigger. Thus, the term “single function of the trigger” has been interpreted to mean a single movement of the trigger, regardless of whether that movement is the pull of the trigger or the release of the trigger. By your description, a single pull would fire three rounds, thereby firing more than one shot with a single function of the trigger without manual reloading, likely resulting in a classification of a machinegun.

Q18: *If a trigger attachment which would perform a trigger function every 20 degrees of rotation of the handle, and a hand spring return, was added to a semiautomatic firearm, would it change the classification or legality of the firearm?*

A18: Most likely; this item would be classified as a machinegun due to the mechanical automatic nature of the spring driving continuous action on the trigger attachment. The release of spring-loaded tension on the trigger device would be the trigger which would, according to your description, travel approximately 60 degrees. The distance traveled would most likely cause the firing of more than one shot with a single function of the trigger without manual reloading. A sample would need to be submitted to FTB for official evaluation. We caution that if the classification were to be deemed a machinegun, we would not be able to return the machinegun to a licensee who is not a Special (Occupational) Tax (“SOT”)-payer.

Q19: *If a pen shaped gun is unable to fire until it is bent in the middle at an angle of 45 degrees (similar to the pen gun pictured in this letter), would it still be classified as an any other weapon (AOW)?*

A19: No, such an item would be classified as a pistol (unless the bore did not contain rifling, in which case it would remain an AOW).

Q20: *Are there regulations or timing requirements between when a trigger is pulled, and when a round in the chamber of a firearm must be fired?*

A20: No.

Q21: *Can an unlicensed individual legally modify the firing mechanism within a non-NFA firearm so that the trigger is “fly-by-wire”? Meaning each trigger pull is converted to electrical pulses which travel electronically to the striker or hammer, which is released electronically?*

A21: Yes; as long as the single function of the trigger results in a pulse which creates only a single shot.

Q22: *Can an unlicensed individual legally modify the firing mechanism within a non-NFA firearm that contains a fly-by-wire trigger so that trigger pulls are stored electronically, and can be released later.*

A22: No; the action which would result in “releasing trigger pulls” would become the trigger. Therefore that “releasing trigger pulls” action would be a function of the trigger. If more than one shot was stored and subsequently fired with the activating action, the result would be a machinegun.

Q23: *Are there restrictions on which individuals that work, or contract for a FFL/SOT business can possess off premises, NFA items owned by that business including post sample machineguns?*

A23: Many of your questions regarding NFA regulations can be found in the NFA Handbook, found at www.atf.gov/publications/firearms/nfa-handbook/index.html. However, for your information, each “location” in which NFA business is conducted and every “person” (defined as a partnership, company, association, trust, estate, or corporation, as well as naturalized person) requires a license and SOT Tax paid (see 27 CFR §478.50, 26 U.S.C. §5801, and 27 CFR §479.11).

Q24: *After an NFA firearm is legally transferred to a non-licensee, can he or she make temporary or permanent modification to a firearm that would change the caliber of the firearm from what the approved Form 1 or 4 states, and would notice to the government organization be required in any instance?*

A24: Yes; in most cases changing caliber does not affect the classification of the weapon (with the exception of caliber changes resulting in a caliber greater than .50; which may result in a Destructive Device classification).

However, FTB recommends contacting NFA Branch to inform them of any caliber changes. If a specific caliber conversion is in question, please contact FTB with further details of modifications to obtain a classification.

Q25: *If a forward vertical grip was also an AOW and was designed to fire a single 22lr cartridge as opposed to light upon using the activation switch and that AOW firearm was placed on the front of a non-NFA full sized pistol, would that change the classification or legality of either firearm.*

A25: Yes; placing a registered “AOW” forward grip weapon on the front of a pistol would create a new “AOW” (change the classification of the host pistol).

Q26: *If a registered 20 mm destructive device rifle that has a 16-inch or greater barrel had its barrel length shorted to less than 16 inches, would an additional short-barreled*

rifle (SBR) registration be required first? Or does a destructive device registration trump the need for an additional SBR registration?

A26: No additional registration would be required. However, FTB recommends contacting the NFA Branch to inform them of characteristic changes made to the registered Destructive Device.

Q27: *Can the serial number of a high explosive (HE) 20mm cartridge, registered as a destructive device, be placed on the brass case, and can that case be reloaded with a second high explosive bullet after the first bullet is fired without an additional registration/tax?*

A27: Reloading a HE cartridge would be making a new NFA weapon and therefore require a new registration.

Q28: *If a non-licensed individual legally owns an HE destructive device cartridge, or other explosive destructive device, do they have to notify any government organization when the destructive device is used / destroyed?*

A29: Yes, notice must be provided to the NFA Branch.

Q30: *Under 18 U.S.C. §921 (a)(17)(B)(i), what calibers are defined as "may be used in a handgun"?*

A30: The above regulation recognizes any caliber fired from any handgun.

Q31: *Under 18 U.S.C. §921 (a)(17)(B)(ii), what calibers are defined as "designed and intended for use in a handgun"?*

A31: The above regulation recognizes any caliber projectile greater than .224 inch, which has been loaded into a cartridge case, designed and intended to be fired from a handgun; and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

Q32: *Based on 27 CFR 478.102(d)(2) and 27 CFR 479, is a NICS background check required for NFA firearms?*

A32: No, a background check is conducted when your application to transfer is processed.

Q33: *Based on 24 CFR 478.84, when transferring a short barreled shotgun or short barreled rifle, is the overall length of the firearm or other indentifying marks required to be provided on the Form 4?*

A33: Yes, all identifying characteristics must be included.

Q 34: *Based on 24 CFR 478.84, when transferring a destructive device, any other weapon, suppressor, or machinegun, is the length of the barrel or overall length of the weapon required to be provided on the Form 4?*

A34: Please refer to **A33**.

Please be aware that the preceding analysis is made available for information purposes only and does not constitute any official classification. In order to provide the most accurate determination, FTB must examine an actual sample of the items under consideration. If you require an official classification of any of your proposals, please submit a physical sample(s) and provide a return shipping method to our mailing address:

Bureau of Alcohol, Tobacco, Firearms, and Explosives
Chief, Firearms Technology Branch
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Finally, please contact Pennsylvania State and Philadelphia law enforcement agencies to ensure compliance with applicable State laws and local ordinances as they are often more stringent supplements to Federal Laws and Regulations.

We thank you for your inquiry and trust the foregoing has been helpful in responding to your list of questions.

Sincerely yours,


Earl Griffith
Chief, Firearms Technology Branch