



Michael Martin <mailpacifisticuffs@gmail.com>

RE: Destruction of Firearms

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Thu, Feb 27, 2020 at 11:48 AM

Mr. Martin:

This is in reply to your email to the Firearms and Ammunition Technology Division (FATD) of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in which you ask if you're registered, non-profit company RAW tools would need to acquire a Federal firearms license (FFL) in the following scenario.

- 1) Companies, organizations and individuals would transport firearms to RAW tools in order to have them destroyed.
- 2) Representatives of the companies, organizations or the actual individuals who own / possess the firearms would remain on site while the employees of RAW tools destroy the firearms to ATF specifications.
- 3) RAW tools would utilize the resulting scrap metal to manufacture various garden tools or other non-firearm products. These products would then be distributed within Colorado and to other states.

Your email was forwarded to the Firearms Industry programs Branch (FIPB) for a response.

The Gun Control Act of 1968, defines a firearm as –

(A) 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; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

18 U.S.C. § 921(a)(3).

The GCA, 18 U.S.C. § 922(a)(1) generally makes it unlawful for any person engage in the business of importing, manufacturing, or dealing firearms without a Federal firearms license. The GCA in section 921(a)(21)(A) defines "engaged in the business" as applied to a manufacturer of firearm as "a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principle objective of livelihood and profit through sale or distribution of the firearms manufactured.". Further section 921(a)(21)(c) defines "engaged in the business" as applied to a dealer in firearms as, in relevant part, "a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase or resale of firearms"

The following information is provided based on the description of your business model and on the basis that the firearms are properly destroyed and do not meet the definition of a firearm under the GCA. RAW tools destruction of firearms is not considered manufacturing firearms with the principle objective of livelihood and profit through the sale or distribution of firearms. Additionally, RAW tools does not purchase or resell firearms for the purpose of livelihood or profit through the destruction of firearms. Therefore, RAW tools does not require a license under the GCA. RAW tools would also like to distribute the scrap from the destroyed firearms within Colorado or to other States. As long as the scrap does not meet the definition of a firearm under section 921(a)(3) this activity does not require a license under the GCA.

Neither the GCA nor its implementing regulations define the term "transfer." The common legal definition of "transfer" broadly encompasses any method of disposing of an asset. A "transfer" includes any change in dominion or control of a firearm, whether temporary or permanent, commercial or noncommercial. Based on the facts provided, a transfer does not occur because the firearm owner / possessor remains with the firearm through the destruction process. This analysis may change if an owner / possessor transfers a firearm and does not remain with the firearm during destruction. The GCA makes it unlawful for any non-licensee to receive a firearm in their state of residence purchase or obtained outside of that state. 18 U.S.C. § 922(g)(3). Additionally, section 922(t) generally requires a NICS background check prior to the transfer of a firearm from a Federal firearms licensee to a non-licensee.

With respect.

Michael S Knapp

Firearms Enforcement Specialist

Bureau of Alcohol, Tobacco, Firearms and Explosives

Firearms and Explosives Industry Division

Firearms Industry Programs Branch