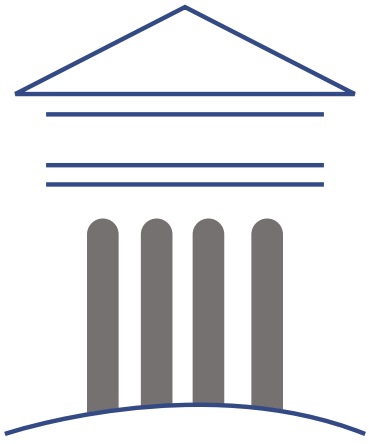
Appendices

Additional Information on The Gunsmithing Business and Laws



APPENDIX 1 — NATIONAL FIREARMS ACT 3
National Firearms Act (NFA) - Technical 3
Registration & Taxes 4
NFA Occupational Taxes 4
National Firearms Act (NFA) Transactions 4

APPENDIX 2 — GUN SHOWS/RAFFLES 5
Gun Shows 5
Gun Raffles 5

APPENDIX 3 — FIREARMS TRANSACTION RECORDS 6
Firearms Transaction Records 6
Identification of Customer 6

APPENDIX 4 — ATF INSPECTIONS 7
Application Investigations 7
Compliance Investigations 8
Report of Violations 9

APPENDIX 5 — RECORDKEEPING 10
Recordkeeping For Licensed Dealers (18 USC 923(G)) 10
Recordkeeping For Non-Licensees 10

APPENDIX 6 — FIREARMS TRANSACTION RECORDS 11
Unlicensed People and The Gun Control Act 11
Residency 11
Age Limits 12

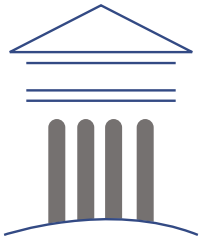
APPENDIX 7 — LICENSING UNDER THE GCA 13
Types of Federal Firearms Licenses 13
Who Can Hold an FFL? 13
How Do I Obtain a Federal Firearms License? 13
Miscellaneous Provisions 13
Violations of The Law By Licensees 13

APPENDIX 8 — SALES 14
Sales To Out of State Residents 14
Sales In Part Year Residents 14
Sale of Firearms To Licensed Collectors 14
Sales To Law Enforcement Officers 15

APPENDIX 9 — CONTROLLING YOUR INVENTORY 16

APPENDIX 10 — STRAW PURCHASES 17
Straw Purchases – What is It? 17

APPENDIX 11 — PROHIBITED PERSON 18
What is a Prohibited Person? 18
Prohibited Persons Defined 18
Lautenberg Amendment 18 USC 922(G)(9) 18
Additional Information on Aliens 18 USC 922(Y) 19
Youth Handgun Safety Act 18 USC 922(X) 19



Appendix 1 — National Firearms Act

NATIONAL FIREARMS ACT (NFA) - TECHNICAL

The "National Firearms Act" (26 USC Chapter 53) regulates machine guns, destructive devices and certain other firearms. It is part of the Internal Revenue Code

The NFA defines the "Firearms" it covers as:

1. Shotgun with barrel(s) length of less than 18"
2. A weapon made from a shotgun with an overall length of less than 26" or barrel(s) less than 18" in length
3. Rifle with a barrel(s) length of less than 16"
4. A weapon made from a rifle with an overall length of less than 26" or barrel(s) less than 16" in length
5. Any Other Weapon as defined in subsection (e)
6. Machine Gun
7. Silencer
8. Destructive Device

The term "Any Other Weapon" includes:

1. "Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive". However, the definition specifically excludes pistols or revolvers with rifled bores.
2. A pistol or revolver with a smooth bore that can fire a fixed shotgun shell.
3. "Weapons with combination shotgun and rifle barrels 12" or more, less than 18" in length from which only a single discharge can be made from either barrel without manual reloading."

Some examples of "Any Other Weapon" are

1. H & R Handyguns
2. Ithaca Auto-Burglar guns
3. Cane Guns
4. Gadget-type firearms and "pen" guns which fire a projectile by the action of an explosive.

The term "Destructive Device" includes:

1. (a). Any explosive, incendiary or poison gas
2. Bomb
3. Grenade
4. Rocket having a propellent charge of more than 4 oz.
5. Missile having an explosive or incendiary charge of more than ¼ oz.
6. Mine
7. Similar device

(b). Any type of weapon which will or may be readily converted to expel a projectile by the action of an explosive or other propellant with barrel(s) which have a bore of more than ½". However, the definition specifically excludes shotguns or shotgun shells which the Director of ATF finds are "generally recognized as particularly suitable for sporting purposes".

(c). Any combination of parts designed or intended to convert any device into a Destructive Device as described in (a) or (b).

The term "Destructive Device" also does NOT include:

1. Any device which is not designed or re-designed as a weapon.
2. Any device originally designed as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device.
3. Surplus ordnance sold, loaned or given by the Secretary of the Army under 10 USC 4684(2), 4685 or 4686
4. Any device which the Director of ATF finds either
   - is not likely to be used as a weapon.
   - is an antique.
   - is a rifle which the owner intends to use solely for sporting purposes.
5. Examples of Destructive Devices are
   - Molotov Cocktails
   - Mortars
   - Bazookas

A "Machine Gun" is a firearm that fires, is designed to fire, or can be readily restored to fire more than one shot without manual reloading by a single function of the trigger.

The term also includes:

1. The frame or receiver of any such weapon.
2. Any part, or combination of parts, designed for use in converting a weapon to a machine gun.
3. Any combination of parts from which a machine gun can be assembled (If under the control of a person).
4. The "Machine Gun Ban" of 1986 makes it illegal for a private citizen to transfer or possess a machine gun.

Government agencies, including police departments are exempt from this law.

Machine guns that were lawfully possessed before the effective date of this law, May, 19, 1986, are exempt from this law.

All other NFA weapons were not effected by the Machine Gun Ban.

REGISTRATION & TAXES

1. All NFA weapons must be registered under federal Law
2. No transfer of an NFA weapon can take place until the application has been approved by ATF.
3. No NFA weapon can be made by a non-occupational taxpayer until the application has been approved by ATF.
4. There is a "Making Tax" of $200 imposed on the making of an NFA weapon by a non-occupational tax payer.
5. There is a $200 "Transfer Tax" imposed on the transfer of an NFA weapon to or from someone who is not an NFA occupational Taxpayer.
6. There is a $5 "Transfer Tax" imposed on the transfer of an NFA weapon classified as an "Any Other Weapon" to or from someone who is not an NFA occupational Taxpayer.

NFA OCCUPATIONAL TAXES

- Importer of NFA Firearms - $1000/Year
- Manufacturer of Firearms - $1,000/Year
- Dealer of NFA Firearms - $500/Year

Importers and Manufacturers can pay a reduced rate of $500 if their total gross receipts in the last taxable year were less than $500,000.

An NFA Occupational Taxpayer must be licensed under the Gun Control Act to carry out the proposed activity.

An Occupational Taxpayer is exempt from Transfer or Making Taxes.

If someone liable for Occupational Tax establishes, to the satisfaction of the Director of ATF, that his business is conducted "exclusively with, or on behalf of the United States", the Director shall relieve him from payment of the tax.

A person who manufactures NFA weapons for, or on behalf of the United States may be relieved from compliance with any provision of 27 CFR Part 179.

NATIONAL FIREARMS ACT (NFA) TRANSACTIONS

Types of NFA Transactions

Generally, NFA transactions fit into the categories we discussed previously. However, because of the tax issues, we sometimes classify them differently.

Tax Exempt Transactions

- Transfer between NFA Taxpayers (ATF Form 3)
- Tax exempt manufacture on behalf of Gov't Agency (ATF Form 1)
- Transfer to, or from a Gov't Agency (ATF Form 5)
- Transfer of an unserviceable Firearm (ATF Form 5)
- Transfer to a lawful heir (ATF Form 5)
- Transfer by operation of law (eg. Court Order) (ATF Form 5)
- Manufacture by an Occupational Taxpayer (ATF Form 2)
- Importation by an Occupational Taxpayer (ATF Form 9)

Taxable Transactions

1. Transfer between Occupational Taxpayer and non-Occupational Taxpayer (ATF Form 4)
2. Transfer between two non-Occupational Taxpayers (ATF Form 4)
3. Manufacture by non-Occupational Taxpayer (ATF Form 1)

Appendix 2 — Gun Shows/Raffles

GUN SHOWS

A dealer can **SELL** firearms at two types of locations

1. His business premises
2. A gun show or event in his home state

What is a gun show?

27 CFR 478.100(b) has a definition.

An event sponsored by any national, state or local organization, devoted to the collection or sporting use of firearms or by an organization that sponsors functions devoted to the collection or sporting use of firearms in the community.

- Licensees conducting business at gun shows must keep records and conduct business as if they were at their licensed premises. Their records must indicate the location of the gun show and be kept with their other records at their premises.
- A flea market is **not** a **gun show**.
- A dealer can **buy** or **acquire** firearms anywhere!

A dealer at an out of state gun show may only

- Sell and deliver curio or relic firearms to another licensee.
- Display firearms.
- Take orders for firearms.

These orders would have to be filled from the licensee's premises by shipping the firearms to a dealer in the purchaser's home state.

GUN RAFFLES

A dealer can provide a firearm to be raffled by an organization in three ways

1. The dealer sells the gun to a representative of the organization, who completes Form 4473 and is checked through NICS. The buyer must provide a written statement, signed under penalties of perjury, stating
    - that the firearm is being acquired for he use of, and will be the property of the organization.
    - The name and address of the organization.

    The organization then transfers the firearm to the winner as a non-licensee. Obviously, this can only be used if the organization is a non-licensee.

    Not my favorite choice because
    - If gun is misused, it traces to wrong person.
    - If winner is prohibited, organization and dealer could be sued.
    - To do this, the winner must be a resident of the same State as the purchaser.
    - There are two easier, safer ways to handle the raffle.
2. The organization pays the dealer for the gun. The winner goes to the gun shop, fills out form 4473, and, after a successful NICS check is run, he is given the firearm.
    - While he's in the shop, the dealer can sell him something else!
    - He won't be drunk in the shop; he may be at a banquet.
3. If the raffle can qualify as a gun show, the dealer can do his paperwork, run a NICS check and dispose of the gun to the winner there.

Appendix 3 — Firearms Transaction Records

FIREARMS TRANSACTION RECORDS

Forms 4473, the "Heart" of the Gun Control Act

Filled out whenever a licensee sells a firearm to a non-licensee.

This form is the source of information for the NICS check.

Buyer must complete and sign Section A before the insta-check is conducted.

- If question 11a is answered "no", the licensee cannot make the sale.
- If any of questions 11b to 11k is answered "yes", the licensee cannot make the sale.
- If question 11l is answered "yes", you are dealing with a non-immigrant alien and the "non-immigrant alien rules" apply.

Section B –Identification of Customer

Section C- Insta-check information & NICS, or state approval number.

Section D -Firearms purchased and seller's signature.

That signature must be the person who actually made the sale.

IDENTIFICATION OF CUSTOMER

A valid government-issued photo I.D. is required. A customer must have identification that covers all of the following:

1. Name
2. Address
3. Date of Birth
4. Photograph

More than one form of identification may be used to cover all the required information, but all of the forms of identification must be government-issued I.D.

If there is no government-issued photo I.D., there can be no disposition of a firearm to that customer by an FFL holder.

Social Security cards are not acceptable as identification.

Remember, a non-immigrant alien is a prohibited person unless he meets one of the exemptions

1. Here for a shooting event.
2. Here for a hunting trip.
3. Has a current hunting license.
4. An official representative of a foreign government who is either accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States or is en route to or from another country to which that alien is accredited. **This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the representative's official capacity;**
5. An official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State. **This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the official's or visitor's official capacity, except if the visitor is a private individual who does not have an official capacity.**
6. A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business

You will probably never see 4, 5 & 6 above. If you do, see the instructions for Question 20C on Form 4473. **Remember, you must see documentation to accept the exemption.**

Appendix 4 — ATF Inspections

Generally, ATF Industry Operations Investigators will come to your premises for two reasons

1. **Application Investigation**

   Usually done in connection with your first application for a Federal Firearms License (FFL).

2. **Compliance Investigation**

   Done after you have been operating.

APPLICATION INVESTIGATIONS

Purposes

The purpose of an application investigation is to

1. Verify the accuracy of the application.
2. Determine whether the applicant is a prohibited person.
3. To ensure the applicant intends to engage in business operations covered by the license applied for.
4. To determine the applicant has suitable premises from which to conduct business.
5. To determine the applicant's ability to comply with ATF requirements as well as state and local laws.
6. To assist the industry member in understanding federal laws and regulations as they relate to the industry.

What will the investigation consist of?

Contact by the Investigator. The investigator will make three attempts to contact you, probably by phone. He (or she) will leave messages if you have voice mail or if someone else answers the phone.

If you don't return any of the calls, the investigator will send you a certified letter, giving you his phone number and telling you he needs you to contact him in connection with your application. Respond as soon as possible. If you don't respond, you will receive a letter telling you that your application has been abandoned.

Good News – You will get your money back.

Bad News – You will have to re-apply to get an FFL.

Once you are in contact, the investigator will make an appointment to meet with you at your business premises.

What will happen during this meeting?

1. The investigator will ask you for identification.
2. He will review the application with you and help you correct any errors.
3. He will determine that the ownership of the business is what's stated on the application.
4. He will make sure all "responsible people" are shown on the application.
5. He will make sure that
   - You've applied for the right license.
   - Your proposed activity doesn't require any other license.
6. He will determine whether you intend to be "engaged in business".

   Make sure you tell him you're a gunsmith if you are going to only be gunsmithing!
7. He will determine whether your premises:
   - Is suitable for the activity you're going to conduct.
   - Is under your control.
   - Will be accessible to ATF for future inspections.
   - Can be used for business premises without violating state or local law.
8. He will review key parts of the regulations with you.
   - He will give you a paper listing these regulations and where you can find them in ATF P5300.4.
   - He will have you sign his copy of this paper.*

What will happen as a result of the investigation?

The license will be issued within 60 days of the date ATF received the completed application.

On rare occasions, the investigator may tell you the license cannot be issued. This can be caused by

1. One of the responsible people is a prohibited person.

2. The business premises cannot be used:
    - Problem with access by ATF.
    - Problem with access by the public.
    - Problem with state or local law.
3. The "business", as described can't be licensed.
    - Gun shows only.
    - Personal collection only (Does not apply to Collector's license).
    - No intent to make profit.

If this happens, you will be asked if you want to withdraw the application. Remember

- Withdrawal is voluntary. You do not have to do it. The only advantages are
    - You will get your money back faster
    - On your next application, you can answer no to "denial" question.
    - You have a right to appeal any denial.
    - You can re-apply after correcting the problem.

COMPLIANCE INVESTIGATIONS

The purpose of a compliance investigation are to

1. Make sure the business is properly licensed.
2. Determine whether the licensee is "engaged in business".
3. Make sure all responsible people are listed in the licensing database.
4. Make sure all required records are being kept accurately.
5. Make sure all firearms in inventory, past or present, can be accounted for.
6. Determine whether business is operating in compliance with federal Law.
    - See if there are any suspicious purchasers
    - To assist the industry member in understanding federal laws and regulations as they relate to the industry.

What will the investigation consist of?

Contact by the Investigator – The investigator will probably not contact you in advance. He will show up during the business hours you stated on your application.

- By law, he has the right to enter your business premises and examine your inventory and records.
- If there is a problem with the time he has arrived, let him know and he may be able to reschedule his visit.

What will happen during the investigation?

Depending on the size of your business, he may be there for several days or even longer.

1. The investigator will ask you for identification.
2. He will make sure that the ownership of the business matches the application.
3. He will make sure the list of "responsible people" is still correct.
4. He will make sure you have the proper license for the business you're conducting.
5. He will inventory your firearms and compare them to your A & D Record.
6. He will check some firearms you've sold to other FFL's and look for certified copies of their licenses.
7. He will check some firearms you've sold to non-licensees and look for Forms 4473 covering those sales.
8. He will check Forms 4473 for proper completion and determine whether PICS checks have been conducted.
9. He will check Forms 4473 for suspicious purchasers.
    - Possible prohibited people.
    - Possible straw purchasers.
    - Possible firearms traffickers
10. He will tell you what he found, whether there were any problems and will explain what corrective action you need to take.

11. He will answer any other questions you have and clear up anything else in the regulations you don't understand.

    - He will give you another paper listing these key regulations and where you can find them in ATF P 5300.4.
    - He will have you sign his copy of this paper.*

What will happen as a result of the investigation?

Nothing

The Investigator will tell you that he found no problems and that you are operating in compliance.

REPORT OF VIOLATIONS

You will receive a form

- Listing the regulations violated
- Describing the violations
- Listing the corrective action to be taken
- Giving you a date by which the corrections should be made.

Warning Letter

- More serious problems were found. You will receive a letter
- Listing the regulations violated
- Describing the violations
- Warning you that failing to correct the violations could lead to action against your license.

Warning Conference

- Very serious violations have been found. You will receive a letter inviting you to attend a meeting with the area supervisor.
- Each violation will be discussed.
- Corrective action will be discussed.
- You will receive a confirmation letter stating what the problems were and what corrective action you agreed to.
- Read the letter and make sure you understand it and the agreed corrective action is correct.

Revocation of the License/Denial of the Renewal Application

- Serious, willful violations have been found, of types leading directly to the criminal misuse of firearms.
- Extremely rare on a first compliance inspection.
- A long process.

Remember, you have appeal rights.

Appendix 5 — Recordkeeping

RECORDKEEPING FOR LICENSED DEALERS (18 U.S.C. 923(g))

The requirements are:

1. Maintain an acquisition and disposition record.
    - A running inventory of the licensee's business firearms.
2. Maintain Firearms Transaction records, Forms 4473 for sales to non-licensees.
3. Maintain certified copies of the licenses of other licensees firearms were sold to.
4. Maintain copies of multiple sales reports.

RECORDKEEPING FOR NON-LICENSEES

The law requires no recordkeeping by non-licensees for Title I Firearms. However, firearms owners should maintain a list of their firearms, including serial numbers, in case of theft or loss.

Registered owners of NFA weapons should maintain copies of their registration forms. However, even if they have mis-placed the forms, they are still the registered owners of the NFA weapons. They can obtain duplicate registration forms from ATF for any weapon registered to them in the NFA database.

Appendix 6 — Firearms Transaction Records

UNLICENSED PEOPLE AND THE GUN CONTROL ACT

An unlicensed person:

- Can only dispose of firearms to an unlicensed resident of same state (if buyer is not a prohibited person) or to a licensee in any state.
- Can only acquire a firearm within their home state, but may buy a rifle or shotgun in person from a licensee in any state if
    1. Licensee's home state allows sale to out of state resident.
    2. Buyer's home state allows purchase out of state.
    3. Sale complies with all federal laws. (Form 4473 and NICS check.)
    4. Buyer is not a prohibited person.

An unlicensed person:

- May obtain a firearm from an out of state source by having the firearm shipped to a licensee in his home state and acquiring the firearm from that licensee.
    - Form 4473 and insta-check must be completed.
- May obtain ammunition from an out-of-state source as long as he is not a prohibited person.
- A person who is not a prohibited person may transport a firearm interstate for any lawful purpose provided:
    1. Firearm is unloaded.
    2. Firearm is in a locked trunk or
    3. In a locked container if there is no trunk *(Cannot be in glove compartment or console)*
    4. Carrying & Possession must be lawful in place of origin AND destination

An unlicensed person:

- May mail a rifle or shotgun:
    1. To a resident of his or her own state
    2. To a licensee in any state
- Handguns are not mailable.
- A common or contract carrier must be used to ship a handgun:
    1. To a resident of his or her own state
    2. To a licensee in any state
- May ship a firearm to himself or herself in care of another person for a lawful purpose.
    1. Package should be addressed to owner.
    2. Nobody else should open package.
- If relocating out-of state may ship or transport a firearm he lawfully owns with him.
    1. Must notify mover.
    2. Must check state and local laws of new home state.
    3. Machine gun (or other NFA type) owner must have prior approval of ATF.

RESIDENCY

- For firearms purchase purposes, a person is a resident of the state in which he maintains his home.
- A member of the Armed Forces is a resident of the state in which his permanent duty station is located.
- If he actually lives in a nearby state and commutes to his duty station, he is a resident of both states.

- A non-immigrant alien, who has entered the U.S. with a non-immigrant visa, is a prohibited person unless he meets one of the exemptions:

    1. Here for a shooting event.
    2. Here for a hunting trip.
    3. Has a current hunting license.
    4. An official representative of a foreign government who is either accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States or is en route to or from another country to which that alien is accredited. *This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the representative's official capacity.*
    5. An official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State. *This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the official's or visitor's official capacity, except if the visitor is a private individual who does not have an official capacity.*
    6. A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

AGE LIMITS

- A person must be 18 to obtain a rifle or shotgun from a licensee.
- A person must be 21 to obtain a handgun from a licensee.

A parent or guardian may purchase firearms or ammunition as a gift for a juvenile.

Juvenile can only possess a handgun with written permission from a parent or guardian, for limited purposes.

1. Employment
2. Ranching
3. Farming
4. Target Practice
5. Hunting

Appendix 7 — Licensing under the GCA

TYPES OF FEDERAL FIREARMS LICENSES

- Dealer in Firearms (Other than Destructive Devices) (Type 01) (Includes Gunsmith who does repairs for customers)
- Pawnbroker (Type 02)
- Collector (Type 03)
- Manufacturer of Ammunition (For Firearms Other than Destructive Devices (Type 06)
- Manufacturer of Firearms (Other than Destructive Devices) (Type 07)(Includes Gunsmith who manufactures firearms for sale)
- Importer of Firearms (Other than Destructive Devices) (Type 08)
- Dealer in Destructive Devices (Type 09)
- Manufacturer of Destructive Devices (Includes Ammunition for Destructive Devices and Armor Piercing Ammunition) (Type 10)
- Importer of Destructive Devices (Includes Ammunition for Destructive Devices and Armor Piercing Ammunition) (Type 11)

WHO CAN HOLD AN FFL?

Anyone who

- Is at least 21 years old.
- Is not a prohibited person.
- Has not willfully violated the Gun Control Act.
- Has not willfully failed to disclose material information on his application.
- Has not willfully made false statement on his application.
- Has a premises for conducting business.

In addition, the applicant must certify

- The business to be conducted is not prohibited by state or local law.
- Within 30 days of the approval of the application, the business will comply with all applicable requirements of state and local law.
- Business will not be conducted under the license until all requirements of state and local law have been met.
- The applicant has given a copy of the application to the chief law enforcement officer where the premises are located.
- Secure gun storage or safety devices will be available. *

HOW DO I OBTAIN A FEDERAL FIREARMS LICENSE?

- Submit an application (ATF F. 7 or ATF F. 7CR) with the appropriate fee.
- Submit photographs and fingerprints of all responsible people.

MISCELLANEOUS LICENSING PROVISIONS

- A license only covers one location; the business premises. All sales must be made at that location or at a gun show in the same state.
- A licensee can purchase firearms at any location, but must be able to identify himself as a licensee.
- A licensed importer or manufacturer does not need a dealer's license to deal, at his premises, in the same type of firearms he is authorized to manufacture or import.
- A licensee who has filed a renewal application on time, can continue to operate under his expired license until ATF acts on his application.

VIOLATIONS OF THE LAW BY LICENSEES

Avoiding Violations that Contribute Directly to Criminal Misuse of Firearms

All violations are not equal. All violations are serious and must be corrected. Usually, correcting the violation is easy and no further action by ATF is required.

However, a licensee does not want to commit any violations that contribute directly to the criminal misuse of firearms. These violations are

- A willful sale to a prohibited person.
- Willfully facilitating a straw purchase.
- A willful sale to an underage person.
- Being unable to account for a significant number of firearms.

These violations should be avoided at all costs.

Appendix 8 — Sales

SALES TO OUT-OF-STATE RESIDENTS

Only long guns can be sold directly to an out-of-state resident.

- The sale to an out-of-state resident must be legal in the dealer's home state.
- The purchase in another state must be legal in the purchaser's home state.
- The sale must comply with all federal laws.
- The purchaser must appear in person at the gun shop and make an over the counter purchase.

Any firearm can be shipped to a dealer in the purchaser's home state who would then transfer the gun to the unlicensed purchaser.

- The selling dealer must have a certified copy of the license of the dealer he's shipping the firearm to.
- The selling dealer's disposition is made to that dealer. He will log the firearm as acquired from the selling dealer and disposed of to the purchaser.
- The dealer who disposes of the gun to the unlicensed purchaser has the purchaser complete Form 4473 and does the insta-check.

SALES IN PART YEAR RESIDENTS

If a person maintains homes in 2 states and resides in both state for certain periods of the year, he, or she, may during the period of time the person resides in a state, purchase a handgun in that state.

Owning property in a state is not enough. The buyer must live there.

The dealer would have to identify the customer as discussed in that segment of the seminar. Remember, all I.D. documents must be government-issued.

There are two distinct issues:

1. Does the purchaser live in the state?

   Does the purchaser have Government issued identification confirming that he lives in the state?

SALE OF FIREARMS TO LICENSED COLLECTORS

As most dealers should be aware, a federal collector's license only covers those firearms that are classified as curios and relics. *Curios and relics* are defined as:

- "Firearms which are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:
- Firearms which were manufactured at least 50 years prior to the current date, but not including replicas thereof;
- Firearms which are certified by the curator of a municipal, state or federal museum which exhibits firearms to be curios or relics of museum interest; and
- Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre or because of their association with some historical figure, period or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less."

ATF Publication 5300.11, Firearms Curios and Relics List, consists of lists of these firearms determined to be curios or relics from 1972 to the present.

Therefore, a disposition to a federally licensed collector of a curio or relic handgun does not require a NICS check or the preparation of a Form 4473. However, you must get, and maintain in your records, a signed copy of the Collector's license from the licensee.

A federally licensed collector acquiring any firearm that is not a curio or relic should be treated as a non-licensee.

SALES TO LAW ENFORCEMENT OFFICERS

When a law enforcement officer is buying a duty weapon, he is exempt from everything in the *Gun Control Act* except for the Lautenberg Amendment (Misdemeanor Crime of Domestic Violence).

He can purchase a handgun from outside his state of residence and he does not need to complete Form 4473.

To qualify for this exemption, he needs a letter from his commanding officer stating that the firearm will be used in his official duty and that the Officer has not been convicted of a misdemeanor crime of domestic violence.

Remember that this exemption only applies to the purchase of a duty weapon. A Law Enforcement Officer purchasing a personal firearm, or without a letter from his commanding officer is treated exactly like any other private citizen.

Appendix 9 — Controlling Your Inventory

A key to successfully maintaining your FFL is to control your inventory.

Why is this such an important key?

To be successful, a dealer needs to have the proper size inventory for his business.

An FFL must know what he has in inventory to know when to re-order firearms.

An excessive inventory:

- is more difficult to control.
- Takes money out of your pocket and converts it to firearms you won't sell in a reasonable period.

An inventory that is too small may cause you not to have firearms customers want and could cause you to lose sales.

Some simple things to think about to determine how large an inventory to maintain

- When you order from each of your suppliers, how long does it take to receive your order?
- How many firearms, from the supplier we're considering, are you likely to sell during that period? (Remember seasonal differences.)
- How often do you take a physical inventory? Generally, you need to have enough firearms on hand to last until you can get an order filled.

In order to control your inventory:

Take frequent inventories.

1. During a round of firearms inspections in 2001, ATF found that dealers who took frequent inventories (one or more per year) did not have inventory problems. **Dealer's that did not take frequent inventories all had inventory problems.**
2. These do not have to be full inventories at one time. (ie. Inventory handguns one month, rifles a second, shotguns a third. This schedule would result in four full inventories a year).
3. The more frequent the inventories, the easier it will be to find and correct inventory errors.

What is a full inventory?

1. A comparison of each firearm on the premises to its entry in the Acqusition & Disposition (A & D) Record.
2. A search, physically and in sales records, for any firearm that is supposed to be on the premises and is not.

Correction of inventory errors.

- Make corrections to the A & D Record. Enter firearms that were not entered.
- Correct entries as required.

Report missing firearms to ATF.

Reference firearms to the A & D Record.

Tag Firearms in inventory

1. By date acquired.
   Generally this is too vague a method.
2. By numbering firearm when entered into A & D Record.
   Workable, but awkward with multiple books.
3. By referencing each firearm to its exact location in the A & D Record i.e. Book 1, Page 23, Line 12.
   This will allow you to find the firearm quickly in you're A & D Record

Appendix 10 — Straw Purchases

STRAW PURCHASES – WHAT IS IT?

A "straw purchase" is a situation in which a person is using a "straw purchaser"(another person) to acquire one or more firearms from a federal firearms licensee. This is a common way for prohibited people to try to acquire firarms.

Specifically, the actual buyer uses the straw purchaser to execute the Form 4473 purporting to show that the straw purchaser is the actual purchaser of the firearm. In some instances, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm. (ie. convicted felon) Because of his disability, the person uses a straw purchaser who is not prohibited from purchasing a firearm from the licensee. In other instances, neither the straw purchaser nor the actual purchaser is prohibited from acquiring the firearm.

In both instances, the straw purchaser violates federal law by making false statements on Form 4473 to the licensee with respect to the identity of the actual purchaser of the firearm, as well as the actual purchaser's residence address and date of birth. The actual purchaser has unlawfully caused the making of the false statements and may be a prohibited person in possession of a firearm after the sale is made.

A licensee selling a firearm under these circumstances also violates federal law if the licensee is aware of the false statements on the Form 4473. He has falsified his records concerning the identity of the true purchaser of the firearm, has sold a firearm to the true purchaser without having that person fill out ATF Form 4473 and without having an insta-check (NICS) check done on that person. He also may have disposed of a firearm to a prohibited person. It does not matter whether the straw purchaser and the actual purchaser are both residents of the state in which the licensee's business premises are located or whether neither of them is a prohibited person. Outside of a legitimate gift situation, any time one person is purchasing a firearm meant for another person, they are violating federal law.

Remember, a straw purchase is a common way that criminals acquire firearms.

What is an insta-check worth if the person being checked is not the real purchaser of the firearm? The answer is "nothing". A check of the wrong person is worthless.

Nobody should ever knowingly participate in a straw purchase because

1. Straw purchases help criminals commit firearms crimes which can harm innocent people.

2. Knowingly participating in a straw purchase is a crime which can cost a licensee his firearms license and any participant his own firearms rights.

3. Participating in a straw purchase helps those people who want to portray the firearms' business as something bad and put additional restrictions on the business.

Someone trying to make a straw purchase will usually not tell the seller what they're doing, but there will often be signs of what's occurring. If a seller is alert, he may be able to recognize these signs and stop the illegal sale from occurring.

We recommend a licensed dealer follow three simple rules to try to recognize a straw purchase as it's occurring. While these rules were written for licensed dealers, they have some application to an unlicensed seller

> **Know your Customer**. Discuss the purchase and the purpose with the customer. A customer who's buying a firearm suited to the purpose he's buying it for is likely to be a happy, and a repeat, customer. A straw purchaser, who's buying a firearm for someone else, may have trouble with this type of questions.
>
> **You have a right to ask questions.** A firearms dealer is in a high risk business. Any seller has a right to satisfy himself that the sale he's being asked to make is legal and above board. As a seller, you have a right, and an obligation to yourself, to determine that the person asking you to sell him a firearm is the actual purchaser of the firearm.
>
> **You have a right to refuse to make a sale.** If you believe that the person you're dealing with is not purchasing the firearm for himself, it is illegal to make the sale.

For a dealer, the most obvious sign that a straw purchase is occurring is question 11a on the new ATF Form 4473. This question is "Are you the actual buyer of the firearm(s) listed on this form? If the purchaser answers "no" to that question, a dealer cannot sell him the firearm. He has, by that answer, told the dealer that he is buying the firearm for someone else.

Remember that people sometimes misunderstand questions on forms. Remember the second rule above. A dealer has the right to ask questions. A dealer should ask the person if his answer to that question is correct, that he is not the actual buyer of the firearm. If he confirms it, the sale should not be made.

If he wants to change the answer, the dealer should ask some more questions. One obvious question would be, why did you answer "no" to that question? His answers, and his reactions to the questions will help the dealer decide if this is a straw purchase. If the dealer is not satisfied that he is the actual purchaser of the firearm, the sale should not be made.

Appendix 11 — Prohibited Person

WHAT IS A PROHIBITED PERSON?

Reducing the gun control act to one sentence: The purpose of the Gun Control Act is to keep firearms out of the hands of "prohibited persons".

PROHIBITED PERSONS DEFINED:

Under Indictment

Under indictment for "crime punishable by a term of imprisonment exceeding one year".

Convicted Felons

- Convicted of a "crime punishable by a term of imprisonment exceeding one year".
- This means a felony with a maximum penalty of over 1 year or:
- A misdemeanor with a maximum penalty of over 2 years.
- Does not include anti-trust, unfair trade practices etc.

Fugitives

Fled state to avoid criminal prosecution or to avoid giving testimony in a criminal proceeding.

Drug Users

Current user of illegal drugs.

Dishonorable Discharge

Discharged from the Armed Forces with a dishonorable discharge or dismissal adjudged by a general court martial.

Illegal Aliens

An alien who is in the U.S. illegally.

Mental Defectives

Finding by court that a person

- Is a danger to himself or others.
- Lacks the mental capacity to manage his own affairs.

Evidence can be

- Finding of insanity in a criminal case.
- Found incompetent to stand trial.

Renounced Citizenship

- Formal renunciation of U.S. citizenship.
- Hasn't been reversed.

Restraining Order

Subject to a court order that restrains him from harassing, stalking or threatening an intimate partner or child of such intimate partner.

1. Issued after hearing.
2. Restrains from harassing, stalking or threatening.
3. Includes a finding that he is a credible threat; or
4. Explicitly prohibits the use, threatened use or attempted use of physical force.

LAUTENBERG AMENDMENT 18 USC 922(G)(9)

Has been convicted of a misdemeanor crime of domestic violence.

- Misdemeanor or maximum penalty of less than a year in states that do not have misdemeanors
- Involves use or attempted use of physical force or threatened use of a deadly weapon.
- Committed by current or former spouse, parent or guardian of the victim.
- Must have been convicted, not just charged.

Police Officers are not exempt from this disability.

When buying a duty weapon

- Letter from commanding officer certifies police officer has not been convicted of a misdemeanor crime of domestic violence.

ADDITIONAL INFORMATION ON ALIENS 18 USC 922(Y)

- Can't be here on non-immigrant visa unless one of the following:
  - Here for a shooting event
  - Here for a hunting trip.
  - Has a current hunting license.
  - Is an official representative of a foreign government possessing a firearm in his official capacity.
  - Is an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State.
  - Is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

YOUTH HANDGUN SAFETY ACT 18 USC 922(X)

1. Prohibits, with certain exceptions, possession of handgun by anyone under 18 years old.
2. Prohibits any person from selling, delivering or transferring a handgun to a person under 18.
3. Licensees cannot make a handgun disposition to anyone under 21. That hasn't changed.