



February 18, 2016

BY ELECTRONIC DELIVERY

Krissy Carlson
Division Chief
Firearms and Explosives Industry Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice
244 Needy Road
Martinsburg, WV 25405

Re: Request for Advisory Opinion on Licensing for Certain Gun Show Sellers

Dear Ms. Carlson:

On behalf of my client the National Associations of Arms Shows (“NAAS”), we would like to request an advisory opinion on licensing for persons who wish to sell firearms at gun shows. Specifically, we respectfully request guidance on licensing for persons engaged in a limited practice of selling firearms only at in-state firearms shows. As you may remember, we discussed this matter with representatives of the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) during a meeting at the January 2016 SHOT Show.

At that meeting, ATF noted that ATF E-Form 7, *Application for Federal Firearms License*, will soon be amended by removing the hitherto confusing Question 18a: “Do You Intend to Sell Firearms **Only** at Gun Shows?” In light of recent Executive actions and this change to ATF Form 7, ATF also promised to provide a formal, written advisory opinion on a specific scenario should we so request. In furtherance of that promise, what follows is the scenario we envisioned during our previous discussions, and on which we would like to obtain ATF’s written opinion.

As you know, 18 U.S.C. § 923(d)(1)(E) requires a license applicant to have a physical business premises and 18 U.S.C. § 923(d)(1)(F) requires the applicant to certify that his business is permitted by state and local law and will be run in compliance with state and local law. As you are aware, many jurisdictions limit the ability of persons to run businesses out of their homes, whether under zoning restrictions or by other means. However, some such jurisdictions do not object to in-home businesses where no members of the public are received at the home business location. The licensing scenario for which we would like written guidance involves an individual

who lives in one of these jurisdictions where the applicable state and local law would allow him to obtain a business license and run the business out of his home, provided the home business was not open to the reception of members of the public. While a Form 7 applicant must of course include business hours on the application, these business hours would only be included for purposes of ATF inspections, not for receiving members of the public.

While this potential FFL would not receive members of the public at its licensed premises, it would conduct its limited business at gun shows pursuant to 18 U.S.C. § 923(j), selling to buyers from a temporary in-state location in accordance with federal and state law. This would enable the FFL to further the President's stated goal of capturing additional transactions in the FBI's NICS background check process and lawfully conduct firearms sales at the federal level, while remaining in compliance with state and local law. All recordkeeping will of course be maintained at the licensed premises, available for inspection as required by the Gun Control Act and its promulgating regulations.

Based on this scenario, we respectfully request clarification from ATF regarding whether this proposed FFL business model is acceptable and whether ATF would indeed grant a dealer license for such a business. If you have any questions regarding this request, or if you require more information to respond to this request, please do not hesitate to contact me at [REDACTED]

Sincerely,

Handwritten signature of Mark Barnes in blue ink, with the initials "by MAB" written below the signature.

Mark Barnes

Outside Counsel to

National Association of Arms Shows

CC: Mr. Andy Graham
Mr. Marvin Richardson

MB:mab



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

EPS - Firearms Industry Programs Branch

Washington, DC 20226

www.atf.gov

February 17, 2017

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Mark Barnes, Esq.
Outside Counsel to National Association of Arms Shows



Re: Request for Advisory Opinion on Licensing for Certain Gun Show Sellers

Dear Mr. Barnes:

This responds to your February 18, 2016 letter sent electronically to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and our recent discussions at this year's 2017 SHOT Show. In your letter and during our discussion, you requested additional guidance on licensing for persons engaged in selling firearms at in-state gun shows.

In January 2016, ATF published written guidance entitled "Do I Need A License To Buy And Sell Firearms?" The intent was to describe, generally, the facts and circumstances that ATF considers in determining whether someone is sufficiently engaged in the business of dealing in firearms to require a Federal firearms license. Among other key points, the guidance made clear that the buying and selling of firearms can rise to a level requiring a license even if the transactions are consummated only at gun shows or over the internet.

Since publication of the guidance, ATF has fielded a variety of questions seeking further clarification, especially about the extent to which persons who regularly buy and sell firearms at gun shows – but not from a fixed commercial location – are allowed and/or required to obtain a Federal firearms license. This letter is intended to provide you with additional clarification.

Anyone who is engaged in the business of buying and selling firearms, regardless of the location(s) at which those transactions occur is required to have a Federal firearms license. ATF will issue a license to persons who intend to conduct their business primarily at gun shows, over the internet, or by mail order, so long as they otherwise meet the eligibility criteria established by law. This includes the requirement that they maintain a business premises at which ATF can inspect their records and inventory, and that otherwise complies with local zoning restrictions.

Mark Barnes, Esq.

License issuance decisions will continue to be made at the Field Division that geographically encompasses the prospective licensee's premises.

To avoid future confusion, ATF has recently been engaged in revising ATF form 7, Application for Federal Firearms License (ATF Form 5310.12) to amend language concerning when applicants who intend to sell firearms at gun shows are required to obtain a license. ATF anticipates that the revision process will be done soon, and that the revised form 7 will be available in the Spring of 2017. However, persons who intend to conduct their business primarily at gun shows, over the internet, or by mail order are free to submit the current form 7 in the interim, and it will be processed in accordance with the above-stated criteria.

We trust the foregoing is responsive to your request. If you should have any further questions, please contact the Firearms Industry Programs Branch (FIPB) at (202) 648-7190 or fipb@atf.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Carlson', written in a cursive style.

Krissy Y. Carlson

Chief, Firearms and Explosives Industry Division