

ATF – Bureau of Alcohol, Tobacco, Firearms and Explosives

Identify Prohibited Persons

The Gun Control Act (GCA) makes it unlawful for certain categories of persons to ship, transport, receive, or possess firearms. 18 USC 922(g). Transfers of firearms to any such prohibited persons are also unlawful. 18 USC 922(d).

These categories include any person:

- Under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year;
- convicted of a crime punishable by imprisonment for a term exceeding one year;
- who is a fugitive from justice;
- who is an unlawful user of or addicted to any controlled substance;
- who has been adjudicated as a mental defective or has been committed to any mental institution;
- who is an illegal alien;
- who has been discharged from the military under dishonorable conditions;
- who has renounced his or her United States citizenship;
- who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or
- who has been convicted of a misdemeanor crime of domestic violence (enacted by the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, effective September 30, 1996). 18 USC 922(g) and (n).

The Arms Export Control Act (AECA) prohibits the issuance of licenses to persons who have been convicted of:

Section 38 of the AECA, 22 USC 2778;

Section 11 of the Export Administration Act of 1979, 60 USC App. 2410;

Sections 7903, 794, or 798 of Title 18, USC, relating to espionage involving defense or classified information;

Section 16 of the Trading with the Enemy Act, 50 USC App. 16;

Section 30A of the Securities Exchange Act of 1934, 15 USC 78dd-1, or section 104 of the Foreign Corrupt Practices Act, 15 USC 78dd-2;

Chapter 105 of Title 18, USC, relating to sabotage;

Section 4(b) of the Internal Security Act of 1950, 50 USC 783(b), relating to communication of classified information;

Sections 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954, 42 USC 2077 2122, 2131, 2234, 2272, 2275, and 2276;

Section 601 of the National Security Act of 1947, 50 USC 421, relating to the protection of the identity of undercover intelligence officers, agents, and other sources;

Section 371 of Title 17, USC, when it involves conspiracy to violate any of the above statutes; and

International Emergency Economic Powers Act, 50 USC 1702 and 1705.

Prohibitions on Certain Types of Firearms

Federal firearms laws prohibit transactions in and possession of certain types of firearms. These include, for example:

Transfer or possession of a machinegun, 18 USC 922(o);

Manufacture, importation, sale, or possession of any firearm not detectable by airport security devices, 18 USC 922(p);

and Possession of a firearm not registered as required by the National Firearms Act (NFA), 26 USC 5861(d).

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Manufacturers

1. Must a person who engages in the business of manufacturing and importing firearms have a separate license to cover each type of business?
2. May a person licensed as a manufacturer of ammunition also manufacture firearms?
3. May a person licensed as a manufacturer of firearms also manufacture ammunition?
4. Is a person who reloads ammunition required to be licensed as a manufacturer?
5. Must a licensed manufacturer pay excise taxes?
6. May a person engage in gunsmithing under a dealer's license (type 01), or do gunsmiths need to be licensed as "manufacturers" of firearms?

Q: Must a person who engages in the business of manufacturing and importing firearms have a separate license to cover each type of business?

Yes. A separate license is required to cover each of these types of businesses.

[27 CFR 478.41]

Q: May a person licensed as a manufacturer of ammunition also manufacture firearms?

No. A person licensed as a manufacturer of ammunition may not manufacture firearms unless he or she obtains a license as a firearms manufacturer.

Q: May a person licensed as a manufacturer of firearms also manufacture ammunition?

Yes. The person may also manufacture ammunition (not including destructive device ammunition or armor piercing ammunition) without obtaining a separate license as a manufacturer of ammunition.

Q: Is a person who reloads ammunition required to be licensed as a manufacturer?

Yes, if the person engages in the business of selling or distributing reloads for the purpose of livelihood and profit. No, if the person reloads only for personal use.

[18 U.S.C. 922(a) (i) and 923(a), 27 CFR 478.41]

Q: Must a licensed manufacturer pay excise taxes?

Yes. Licensed manufacturers incur excise tax on the sale of firearms and ammunition manufactured. See Item 17, "Federal Excise Tax" in the General Information section of this publication.

Q: May a person engage in gunsmithing under a dealer's license (type 01), or do gunsmiths need to be licensed as "manufacturers" of firearms?

Generally, a person engaged in gunsmithing requires only a dealer's license (type 01). There are circumstances in which a gunsmith might require a manufacturing license. Generally, a person should obtain a license as a manufacturer of firearms if the person is: 1. performing operations which create firearms or alter firearms (in the case of alterations, the work is not being performed at the request of customers, rather the person who is altering the firearms is purchasing them, making the changes, and then reselling them), 2. is performing the operations as a regular course of business or trade, and 3. is performing the operations for the purpose of sale or distribution of the firearms.

Below are examples of operations performed on firearms and guidance as to whether or not such operations would be considered manufacturing under the Gun Control Act (GCA). These examples do not address the question of whether the operations are considered manufacturing for purposes of determining excise tax. Any questions concerning the payment of excise tax should be directed to the Alcohol and Tobacco Tax and Trade Bureau, U.S. Department of the Treasury.

1. A company produces a quantity of firearm frames or receivers for sale to customers who will assemble firearms.

The company is engaged in the business of manufacturing firearms and should be licensed as a manufacturer of firearms.

2. A company produces frames or receivers for another company that assembles and sells the firearms.

Both companies are engaged in the business of manufacturing firearms and each should be licensed as a manufacturer of firearms.

3. A company provides frames to a subcontractor company that performs machining operations on the frames and returns the frames to the original company which assembles and sells the completed firearms.

Both companies are engaged in the business of manufacturing firearms and should be licensed as manufacturers of firearms.

4. A company produces barrels for firearms and sells the barrels to another company that assembles and sells complete firearms.

Because barrels are not firearms, the company that manufactures the barrels is not a manufacturer of firearms. The company that assembles and sells the firearms should be licensed as a manufacturer of firearms.

5. A company receives firearm frames from individual customers, attaches stocks and barrels and returns the firearms to the customers for the customers' personal use.

The operations performed on the firearms were not for the purpose of sale or distribution. The company should be licensed as a dealer or gunsmith, not as a manufacturer of firearms.

6. A company acquires one receiver, assembles one firearm, and sells the firearm.

The company is not manufacturing firearms as a regular course of trade or business and is not engaged in the business of manufacturing firearms. This company does not need to be licensed as a manufacturer.

7. An individual acquires frames or receivers and assembles firearms for his personal use, not for sale or distribution.

The individual is not manufacturing firearms for sale or distribution and is not required to be a licensed manufacturer.

8. A gunsmith regularly buys military type firearms, Mausers etc., and "importerizes" them for resale.

The gunsmith is in the business of manufacturing firearms and should be licensed as a manufacturer.

9. A gunsmith buys semiautomatic pistols or revolvers and modifies the slides to accept new Style f sights. The sights are not usually sold with these firearms and do not attach to the existing mounting openings.

The gunsmith offers these firearms for sale. This would be considered the manufacturing of firearms and the gunsmith should be licensed as a manufacturer.

10. A gunsmith buys government model pistols and installs "drop-in" precision trigger parts or other "drop-in parts" for the purpose of resale.

This would be considered the manufacturing of firearms, as the gunsmith is purchasing the firearms, modifying the firearms and selling them. The gunsmith should be licensed as a manufacturer.

11. A gunsmith buys surplus military rifles, bends the bolts to accept a scope, and then drills the receivers for a scope base. The gunsmith offers these firearms for sale.

This would be considered the manufacturing of firearms and the gunsmith should be licensed as a manufacturer.

12. A gunsmith buys surplus military rifles or pistols and removes the stocks, adds new stocks or pistol grips, cleans the firearms, then sends the firearms to a separate contractor for bluing. These firearms are then sold to the public.

This would be considered manufacturing of firearms and the gunsmith should be licensed as a manufacturer.

13. A company purchases surplus firearms, cleans the firearms then offers them for sale to the public.

The company does not need to be licensed as a manufacturer.

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