



## The End of CLEO?

Most of you are aware of the fact that the NFATCA has been working for years toward the prospect of eliminating the Chief Law Enforcement Officer (CLEO) sign-off requirement on ATF Forms 1 and 4. This issue has consistently ranked at or near the top of our members' list of things that we must accomplish and has always garnered our focus and resources. When we formed this organization, we knew that accomplishing goals would not be a fast track endeavor.

In order to eliminate the CLEO signature requirement, a complete process had



to be engaged. It was not just a matter of sending off a request and having ATF agree to make our lives easier! We had to review an enormous amount of research, both independently and in conjunction with NFA Branch. Presentations had to be made to ATF senior staff, ATF Counsel's Office had to formalize the proposal and submit it to the Department of Justice, DoJ had to do their own review and send it back to ATF for more clarification and review and NFATCA had to keep the consistent pressure applied to ensure that ATF knew that the issue was still important. That's a lot of effort over a

period of several years. So where are we now?

DoJ has reviewed and approved ATF's proposal for eliminating the CLEO signature requirement on Forms 1 & 4. The proposal has been returned to ATF and the folks who compose the official regulations are at work as you read this creating the enabling documentation. This is huge news. But it is not the end of the effort.

The process of turning a proposal into a regulation does not happen overnight. In fact, it may take as long as a year to complete this stage. But with the completion of the regulation, the frustration of obtaining a CLEO signature will be eliminated for all of us.



Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety. ~ Benjamin Franklin

### NFATCA UPCOMING EVENTS:

- ◆ Knob Creek Fall Shoot, October 14-16, 2011, West Point, KY
- ◆ SAR West, December 2-4, 2011, Phoenix, AZ
- ◆ SHOT Show, January 17-20, 2012, Las Vegas, NV
- ◆ NRA Convention, April 13-15, 2012, St. Louis, MO

## The Heart & Soul of §922(r)

The NFA community is certainly faced with a host of statutory and regulatory hurdles. Many of these hurdles are not insubstantial and we handle them with diligence and accuracy. Other hurdles are a bit more difficult to understand, forget implement, and are the source of incorrect opinion, faulty application and broad assumption. Such is the nature of a piece of legislation referred to as §922(r).

§922(r) was signed into law many years ago as an effort by the then current administration and Congress to stymie the influx of cheap, surplus weapons such as semi-automatic AK-47 types. It is a relatively short piece of law:

*"It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this*

*chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to*

*1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or*

*2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General."*

§925(d)(3) is also a relatively brief statute and refers to a weapon that:

*"is of a type that does not fall within the definition of a firearm as defined in section 5845 (a) of the Internal Revenue Service Code of 1954 and is generally suitable for or readily adaptable to sporting purposes, excluding surplus military firearms. Except in the case where the Attorney General has not*

*authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled..."*

To put a plain English interpretation on this might be considered foolish by some, but that is the purpose of this short piece. §925(d)(3) is generally known as the "sporting purposes test". §925(d)(3) bans the import of NFA items (for civilian consumption) and bans the import of any long arm not deemed "sporting." §922(r) takes things one step further by saying that you cannot assemble a weapon in the US from imported parts that would otherwise be banned.

So, what would knock a weapon out of the ability to claim that it meets the sporting purposes test?

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For that we look to the 1989 ATF document titled Report and Recommendations of the ATF Working Group on the Importability of Certain Semiautomatic Rifles. The gist of that report held that military-style features were a no-no and the prospective imported weapon could not have a bayonet mount, separate pistol grip, flash suppressor (or threads), bipod, night sights, grenade launcher, folding or telescopic stocks. This same report also concluded that "high cap" magazines should not be allowed. Begin confusion. The 1994 "Assault Weapons Ban" incorporated the high-cap import bias. When that 1994 legislation expired in 2004, many folks thought that the door had opened for hi-cap mags. Not so much. The AWB legislation did not affect the prohibition in CFR §478.119, which is where the defined features eliciting import ban are enumerated. CFR §478.119 is still with us, so the ban on hi-caps is still with us.

Take a few deep, cleansing breaths and hold on tight for the rest of the story (apologies to the late Paul Harvey). How do you know if you are assembling a weapon from imported parts? That is one of the questions that seems to exercise the wagging tongues of the Internet. Title 27, Code of Federal Regulations (CFR), Part 478, Section 39(a) defines this as using more than 10 imported parts as listed in paragraph (c) of the same section. Those parts are: Frames, receivers, receiver castings, forgings or stampings, barrels, barrel extensions, mounting blocks,

Most people would be very surprised to learn that the firearms industry is not a huge behemoth. They would also be quite surprised to learn that the "machine gun biz" is really all about people, not just buzz guns and bullets. Robert Landies is the owner and founder of Ohio Ordnance Works in Chadron, Ohio and has become a legend in our community. Even greater than his legend, though, is the size of his heart.

Although Bob can list just about all of the armed portions of the United States government as his customers, it's the folks who share his love of the art of the gun that capture his imagination

§922(r), Continued

trunions, muzzle attachments, bolts, bolt carriers, operating rods, gas pistons, trigger housings, triggers, hammers, sears, disconnectors, buttstocks, pistol grips, forearm, handguards, magazine bodies, followers and floorplates.

These items listed above are pieces of information that are mostly clear and readily accessible by the public and create the foundation and instructions for the enforcement of §922(r). Questions that arise from this foundation and instructional set are what cause the most confusion. And sometimes, even the answers can sow yet more confusion. The ubiquity of the Internet has added ultra-high test fuel to the confusion, resulting in the ability of an incorrect lay interpretation of an isolated ATF inquiry response to spread false confidence in what to believe is a legal opinion. Let's take a look at this phenomenon for a bit.

When you have a question with regard to how a particular law applies to a particular weapon, it is reasonable and acceptable to write a letter to ATF's Firearms Technology Branch (FTB). FTB tries to respond to each and every one of these inquiries in a timely manner and does so in written form. You ask a question and you get an answer. You post a copy of your response letter on the Internet and 1000's of folks read that response letter and then base their actions on what they think the response letter is saying. To put it bluntly, that's a very fragile and foolish course of action. First of all, it may not be clear what the original

inquiry said. Without that, the answer could be applied to a host of questions, none of which bear resemblance to the original question... and that application will usually be incorrect. And without the original question, it is very easy to believe that FTB has contradicted itself in responses to similar, yet actually quite different, inquiries. Only having half the story generates mostly incorrect interpretations. Further, these response letters are only valid for the intended recipient and do not constitute blanket opinion or standard operating procedure of the ATF in general or the FTB in particular.

A perfect example of this is the ongoing furor over whether the making of an NFA weapon constitutes an exemption from §922(r). A 1994 individual response letter from then FTB Branch Chief Ed Owen seemed to indicate that the making of an SBR exempted the application of §922(r). Copies of this letter began to circulate and then became displayed on various web sites and gun forums as the Internet grew. "Regular" folks made two very bad mistakes. The first was assuming that all you had to do to "get around" §922(r) was to SBR the thing. The second was assuming that the response letter had bearing on other individuals (such as the prospective gun enthusiast wanting to add a folding stock and bayonet lug to his neutered import SKS).

In the next issue we will learn how to deal with those bad assumptions...

Ohio Ordnance Works

and enthusiasm. Bob opens his shop and his encyclopedic knowledge to everyone and it is a rare person, indeed, that walks away from the experience without enjoying it. Did you buy an antique machine gun that is missing just one part that nobody seems to have? Bob has it and can also tell you the story of how the part got into his (and your) hands. Did you pick up a pile of frozen junk that you are certain will never run again? Bob can turn it into the center piece of your collection.

And though his business is an important part of his world, he knows that his place in our community and the legacy that he is building for his family

is just as important, if not more so. Bob supports NFATCA efforts, encourages his family and employees, challenges the status quo of government regulation and makes the time to give personal attention to anyone who asks. Bob also build some amazingly nice exclusive firearms, such as the VZ2000, M240SLR and 1918A3 Browning semi-autos. Check it out:

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