



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

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Martinsburg, West Virginia 25405

3311/2010-778

www.atf.gov

JUL 20 2010

Len Savage  
Historic Arms, LLC  
1486 Cherry Road  
Franklin, Georgia 30217

Dear Mr. Savage:

This is in reference to your correspondence dated May 27, 2010, to the Firearms Technology Branch, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), requesting clarification of our response to your questions regarding certain firearms not falling within the definition of *shotgun*, despite their use of a shotgun shell for ammunition (ref: 3311/2010-468). As you know, these firearms are originally manufactured with pistol grips in place of shoulder stocks.

Your original questions pertained to the modification of these firearm(s) and their legal classification, when modified. You asked specifically about altering such firearms by shortening the barrel to less than 18 inches or bringing the overall length to less than 26 inches. We informed you that the modification of a pistol-gripped, shotgun-like firearm to a configuration which is "capable of being concealed on the person" would result in the manufacture of an "any other weapon" as defined by the National Firearms Act (NFA). You now seek clarification of our response in two respects—first, what is the point at which such a firearm becomes "capable of being concealed on the person," and second, whether barrel length is relevant in determining whether the firearm is "capable of being concealed on the person."

As you are aware, the NFA, 26 U.S.C. § 5845(a), defines "firearm," in part, as "... (5) any other weapon, as defined in subsection (e)...."

Further, the NFA, 26 U.S.C. § 5845(e), defines "any other weapon," in part, as—

any weapon or device **capable of being concealed on the person** from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell (emphasis added)

ATF has long held that a firearm is "capable of being concealed on the person" when it measures less than 26 inches in overall length. ATF's position is based upon the legislative history of the NFA. In the 1960 amendments to the NFA, Congress recognized the need to ease administration of the NFA by providing an objective standard for determining the concealability of certain firearms. S. Rep. No. 1303, 86th Cong., 2d Sess (1960). For this reason, Congress amended the definition of firearm to include any weapon "made from" a shotgun or a rifle if such weapon

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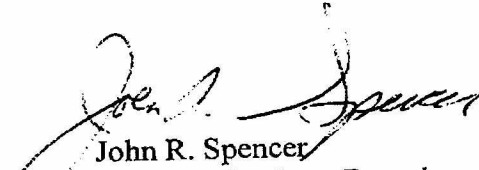
"has an overall length of less than 26 inches" or a barrel or barrels less than 18 inches or 16 inches, respectively.

Based on this legislative history and, in an effort to achieve consistent application of the law, ATF utilizes 26 inches as a presumptive standard to determine whether a firearm is "capable of being concealed on the person." Nonetheless, because the statute does not expressly indicate any maximum overall length, a firearm measuring greater than 26 inches in length *may* properly be classified as an "any other weapon" (AOW) if it otherwise satisfies the definition of an AOW *and* there is evidence that the firearm in question was actually concealed on a person.

With regard to your second question, under the NFA, barrel length is relevant only in regard to rifles and shotguns. Firearms that come equipped with a pistol grip in place of the buttstock are not "shotguns" as defined by the NFA. Therefore, in determining whether a firearm is "capable of being concealed on the person," barrel length is considered only to the extent that it constitutes a portion of the overall-length measurement of a firearm.

Based on the above, we believe that our position with respect to the classification of AOWs achieves consistent application of the law, alerts firearm owners to legal requirements by providing an objective standard, and is a reasonable interpretation of the NFA. We thank you for your inquiry and trust that the foregoing has been responsive.

Sincerely yours,

  
John R. Spencer  
Chief, Firearms Technology Branch