



FFL NEWSLETTER

FEDERAL FIREARMS LICENSEE INFORMATION SERVICE

November 2008

In an effort to keep Federal firearms licensees (FFL) abreast of changing firearms laws and regulations, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will provide semiannual FFL Newsletters. Previous editions of the FFL Newsletters are available on ATF's Web site (<http://www.atf.gov>).

SALE OF FIREARMS AND AMMUNITION TO ALIENS

ALIENS BUYING AMMUNITION:

A nonimmigrant alien generally may not purchase ammunition from a Federal firearms licensee (FFL) or a nonlicensee to possess in the United States. This prohibition applies unless they establish that they meet one of the exceptions. The exception that would apply to most nonimmigrant aliens would be if they were admitted to the United States for lawful hunting or sporting purposes and/or are in possession of a valid hunting license or permit lawfully issued in the United States.

If the nonimmigrant alien meets one of these exceptions, they would be eligible to purchase ammunition to possess in the United States. However, they may not take the ammunition with them when they leave the United States unless:

1. For ammunition of sporting shotguns, they must have an FFL export the ammunition. The FFL must obtain an export license from the Department of Commerce prior to exportation.
2. For ammunition for firearms other than sporting shotguns, an FFL registered with the Department of State, Office of Defense Trade Controls (ODTC), may export the ammunition. The FFL must obtain an export license from ODTC prior to exportation.

Unlike with the purchase of firearms, there is no residency requirement for purchasing ammunition. Additional information is available in ATF Publication 5300.18, Nonimmigrant Aliens Purchasing Firearms and Ammunition in the United States.

ALIENS BUYING FIREARMS: A FOUR-STEP GUIDE FOLLOW THE FOUR STEPS AND KNOW THE EXCEPTIONS

Federal firearms licensees (FFLs) often have questions when aliens purchase firearms. The Following guidelines are recommended when transferring firearms to foreign nationals. Here is a simple guide for those transactions:

Step One: Identify the person's immigration status.

If the buyer is not a U.S. citizen, ask him/her about his/her immigration status and confirm the response with the written answers he/she provides on the applicable ATF Form 4473. If he/she identifies him/herself as a U.S. citizen, proceed with the applicable and appropriate requirements to complete or not complete the transaction.

Step Two: Identify the alien class: Immigrant Alien, Non-Immigrant Alien (NIA), or Illegal Alien.

Any person who is not a U.S. citizen is defined in one of three alien classes.

- Immigrant Alien

The immigrant alien, also known as a resident alien, is a permanent resident of the United States. This person has received permission to live and work in the United



States permanently. A sale to this person is generally permitted (see Step Four).

TIP: To verify their immigrant status, ask to see their Permanent Resident Card, their legal proof of residency in the United States.

● Non-Immigrant Alien (NIA)

The non-immigrant alien is a person not permanently residing in the United States. He has come to the United States for a specific purpose or business, tourism, or some other special interest, e.g., he may be a foreign student. His stay is for a defined period of time, after which he must return to his home country. Generally, he is prohibited from purchasing a firearm, unless he qualifies for an exception (see Step Three).

TIP: To verify his non-immigrant status, ask to see his travel visa, usually affixed inside his passport, and/or other supporting travel documents.

● Illegal Alien

The illegal alien is a person who has entered the country illegally, and who has not received permission to enter or stay in the United States **or** his/her permission to stay in the country has expired. Such persons cannot purchase firearms or ammunition under any circumstances.

Step Three: Identify the purchasing exception for the non-immigrant alien.

There are five general exceptions that allow or enable an NIA to purchase a firearm. They are as follows:

- Hunting purposes or in possession of a hunting permit;
- Official foreign government representative;
- Official foreign government representative w/ State Dept. designation;
- Official foreign law enforcement official on government business;
- Special waiver from the U.S. Attorney General (see Step Four).

TIP: The hunting permit/license exception is the most common exception used by non-immigrants. Ask the purchaser for his/her State-issued hunting permit and make a copy for your records. [Please note that this is not a requirement.]

Step Four: Review the State residency documents.

Both the immigrant alien and the non-immigrant alien who purchases a firearm under an exception must be a resident of the State in which he/she makes his/her purchase. He/she must have documented evidence that he/she has resided in a State for 90 continuous days immediately prior to the date of the sale.

TIP: Ask to see the purchaser's common documents that will verify 90 continuous days of State residency (i.e. utility bills, tenant's lease, bank statements, etc.), and note the documentation used on ATF Form 4473 or attach copies of such documents to the ATF Form 4473.

****Contact your local ATF field office in the event that you have further questions or encounter situations not covered by these four steps. REMEMBER: As an FFL, you have the right to refuse any sale that you feel is unlawful.**

PROVIDING COPIES OF FEDERAL LICENSEES TO UNLICENSED PERSONS

A person not licensed under the Gun Control Act of 1968 (GCA), and not prohibited from acquiring firearms, may purchase a firearm from an out-of-State source and obtain the firearm, in-state, if an arrangement is made with a Federal firearms licensee in the purchaser's State of residence. A firearm may be transferred to the in-state licensee, who then completes the transfer to the unlicensed person, also completing the ATF Form 4473 and Federal Bureau of Investigation (FBI) national Instant Criminal Background Check System (NICS) requirements.

Section 27 CFR 478.94 requires licensees to verify the identity and licensed status prior to transferring a firearm to a person who states they are licensed to receive it. "Verification shall be established by the

transferee furnishing to the transferor a certified copy of the transferee’s license and by such other means as the transferor deems necessary...” This section does not apply to transfers between a licensee and an unlicensed person.

SALES OF FIREARMS TO LICENSED COLLECTORS

Curio and Relic (C&R) firearms are defined as firearms that are of special interest to collectors by reason of some quality other than sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

- (a) Firearms that were manufactured at least 50 years prior to the current date, but not including replicas thereof;
- (b) Firearms that are certified by the curator of a municipal, State, or Federal museum that exhibits firearms to be curios or relics of museum interest; and
- (c) Any other firearms that 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.

Any person who desires to obtain a determination whether a particular firearm is a curio or relic shall submit a written request, in duplicate, for determination by the Director. (See 27 CFR 478.26.)

As a reminder, a curios and relic license does not afford any privileges to the licensee with respect to acquiring or disposing firearms, other than curios or relics, in interstate or foreign commerce. A licensed collector has the same status under the Gun Control Act as a nonlicensee, except for transactions in curio

or relic firearms. Therefore, sales of non-curio or non-relic firearms by Federal firearms licensees to C&R license holders are subject to the Brady law, the FBI National Instant Criminal Background Check System (NICS), and completion of ATF Forms 4473. (See 27 CFR 478.93.)

FFL NEWSLETTER ABBREVIATIONS

ATF has received a number of inquiries regarding the use of abbreviations on ATF Form 4473 (Firearms Transaction Record) and in the acquisition and disposition (A&D) book entries. As a general rule, abbreviations should be avoided on Form 4473 or in entries in the A&D book. This is to avoid confusion or prevent providing an incomplete record. However, there are a number of abbreviations that are allowed.

The use of standard postal State abbreviations (i.e. AK, DE, VA, TX, etc.) or an easily and readily recognized abbreviation such as Mass. for Massachusetts is permitted. Additionally, the use of D.L. to denote “driver’s license” and O.P. to denote “operator’s permit” are also permitted. In general, if an abbreviation is legible and readily understood it would be acceptable. However, if the abbreviation is not understood, you will be told not to utilize it and continued use will result in either the issuance of a report of violation for the appropriate recordkeeping provision or other appropriate action.

As a rule of thumb, if you are unsure as to whether or not an abbreviation is readily understood, the abbreviation should not be used. Please keep in mind the importance of these records to law enforcement and the need to understand the abbreviations if you go out of business. It is important that the entries are written legibly and completely so everyone can understand them. ATF thanks you for your efforts.