

House of Representatives

Clay Doggett
STATE REPRESENTATIVE
70th LEGISLATIVE DISTRICT
Criminal Justice Subcommittee
Chairman



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State of Tennessee

September 7th, 2021

Governor Bill Lee
Tennessee State Capitol
600 Dr. Martin L. King, Jr. Blvd.
Nashville, TN 37243

Dear Governor Lee,

In recent months, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) proposed two rule changes that would violate our state and federal Second Amendment rights and arbitrarily transform thousands of law-abiding Tennesseans into felons. Members of Congress have called it “omnibus gun regulation clothed as a regulation to implement the existing statute.” In harnessing the executive power of President Biden to roll out these changes, the ATF seeks to *make* law, not enforce it, disregarding the separation of powers fundamental to our representative republic. On August 19, 2021, a letter from the attorneys general of eighteen states reminded the ATF that Congress “cannot delegate legislative power,” and that proposed rule 86 FR 27,720 is “unlawful” and “unconstitutional.” Forty-eight U.S. senators and thirty-one U.S. congressmen — including three Tennessee congressmen and both Tennessee senators — have written to express their concern or demand that the ATF withdraw the proposed rules. But the ATF has shown no sign of remorse or willingness to rescind their actions. In the face of this looming threat to our God-given rights, we request that you, as Governor of this state, reject these illegal actions and refuse to enforce unlawful executive edicts.

Proposed rule 86 FR 27,720, *Definition of “Frame or Receivers” and Identification of Firearms*, is a clear construction of a national gun registry forbidden by federal law. In August, twenty-seven members of congress explained how the rule will lead to mandatory registration: “First, by declaring numerous non-firearm gun parts to be firearms which must then be serialized and transferred... after a background check; second, by requiring homemade firearms to be serialized and registered whenever they come into the hands of an FFL; and third, by requiring dealers to keep all of these records in perpetuity, or else transfer them to ATF for scanning and digitization into the agency’s centralized database.” This is not a simple mistake but a deliberate contravention of the clear will of Congress by using a definition of “receiver” that was removed from federal law more than fifty years ago.

The other proposed rule, *Factoring Criteria for Firearms with Attached “Stabilizing Braces”* (86 FR 30,826), would bring many AR-15 pistols under the National Firearms Act (NFA), turning millions of Americans into felons by agency decree. The rule does not include a grandfather clause to allow those who already possess such weapons to continue to do so legally. By threatening to tax items in private possession that were purchased by lawful means, the regulation runs afoul of Article 1, Section 9 of the U.S. Constitution. On June 24, 2021, forty-eight U.S. senators wrote that the ATF is, “merely covering its retroactive gun grab with a patina of administrative process,” and said this rule, “would constitute the largest executive branch-imposed

gun registration and confiscation scheme in American history.” In the last eighteen months, approximately one million firearms have been purchased in Tennessee. Many of these were AR-15 pistols with stabilizing braces, and if this regulation is allowed to stand, thousands of Tennesseans will become felons simply for possessing such weapons.

By enacting Second Amendment Sanctuary Ordinances, two thirds of Tennessee counties have made it clear that they do not want further erosion of their constitutional rights. Our state legislature signaled the same by passing four laws in 2021 to protect the firearm rights of Tennessee citizens from federal encroachment. These laws specifically forbade passing information to the federal government for a national firearm registry; enforcing any law contrary to the Second Amendment or Article 1, Section 26 of the Tennessee Constitution; or enforcing any “executive order, rule, or regulation regulating the ownership, use, sale, or possession of firearms, ammunition, or firearm accessories” if it would result in a violation of “common law or the Tennessee Constitution”. Under TCA 39-17-1367, a state employee helping the ATF to enforce their new rules would commit a felony, and an agency or city government offering the ATF assistance would lose state funding for the following year.

The ATF has tried to excuse their actions by complaining that current rules make their job “difficult”. But the letter from the House of Representatives reminds them, “If difficulty for law enforcement in enforcing the laws was the test as to whether agencies have *carte blanche* to ignore basic fundamental freedoms, then the Bill of Rights would be rendered meaningless overnight. No doubt, the Fourth Amendment’s warrant requirement makes it more “difficult” for law enforcement to intercept drug shipments... yet the inconveniences posed by the Bill of Rights to ATF are not negotiable.” The congressmen go on to state, “It is not the place of the agency to manufacture crimes out of thin air to trap the unsuspecting and otherwise law-abiding citizen.”

This creation of law by agency regulation sets a dangerous and unlawful precedent. We trust that you will stand with us and millions of your constituents against this injustice. Respectfully, we request that you refuse to enforce such arbitrary and illegal rulings, and that you activate the legal means and law enforcement powers of this state as necessary to prevent the ATF from providing for its own enforcement of such criminal measures within the state of Tennessee.

Respectfully,



Clay Doggett
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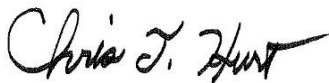
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