



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, West Virginia 25405
www.atf.gov

903050:MCP
3311/2010-339

FEB 25 2010

This refers to your recent correspondence to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Branch (FTB), which included your submitted sample of a .22 LR caliber, rifled barrel insert designed for installation in a flare gun. Specifically, you asked about (1) the classification of the submitted device itself and (2) the lawfulness of installing the subject device in a flare gun.

As background, the amended Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines the term "firearm" to include *any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive...[and]...the frame or receiver of any such weapon.*

With respect to the definitions of "handgun" and "pistol" under Federal statutes and implementing regulations, you may be aware that GCA, 18 U.S.C. § 921(a)(29), defines "handgun" as, in part, *...a firearm which has a short stock and is designed to be held and fired by the use of a single hand....*

Additionally, 27 CFR § 479.11 defines "pistol" to mean *...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).*

Further, the National Firearms Act (NFA), 26 U.S.C. § 5845(a)(5), defines the term "firearm" to mean, in part, *any other weapon, as defined in subsection (e)...*; and § 5845(e) defines "any other weapon" 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 smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can

be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

With regard to your specific concerns pertaining to the submitted sample, you asked the following questions (paraphrased), which are followed by FTB's answers:

Q: *Is the submitted sample (rifled barrel insert device), by itself, subject to regulation under Federal firearms statutes?*

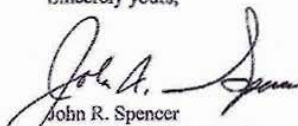
A: No, as confirmed in our examination, the submitted device, in and of itself, is not subject to regulation under the provisions of the GCA or NFA.

Q: *Would it be legal for an individual to install the submitted device in a flare gun for the purpose of firing .22 LR caliber cartridge ammunition?*

A: Installation of your sample device in flare guns would bring them under GCA controls and would impact certain individuals who are prohibited from possessing firearms. Because installation of the submitted device in a flare gun would create a "firearm" as defined in § 921(a)(3), persons who are prohibited from possessing firearms could not lawfully install this device in a flare gun for their personal use. Moreover, possession of the submitted device and a flare gun, together, could also constitute possession of a firearm. Finally, we recommend verifying that use of the submitted device in a flare gun does not violate particular State laws or local ordinances.

We trust that the foregoing has been responsive to your request for evaluation. If we can be of any further assistance, please contact us.

Sincerely yours,


John R. Spencer
Chief, Firearms Technology Branch