



Written by [Bob Adelman](#) on December 14, 2023

ATF Wants Every American Gun Owner to Be Licensed as a Dealer

That would be the effect if the [latest proposed infringement of the Second Amendment](#) by the anti-gun Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is allowed to stand.

On August 31, the rogue anti-gun agency, under directions from Joe Biden, issued a press release heralding a “new regulation to update [the] definition” of what it would arbitrarily determine to be “a Firearms Dealer.”

From the release:

On March 14, President Biden issued Executive Order 14092, which, among other things, directs the Attorney General to develop and implement a plan to *clarify the definition* of who is engaged in the business of dealing in firearms and thus required to obtain a federal firearms license. [Emphasis added.]



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The proposed “update” takes 31 pages, providing “examples” of situations whereby a private gun owner might run afoul of the new definition unless he or she obtains a federal firearms license, pays a fee, and then submits to regulation by the agency. In effect, the new “definition” would turn every private gun owner who either buys or sells a firearm into a gun dealer.

ATF Director Steven Dettelbach tried to defend the proposed infringement by attacking private gun owners seeking to buy or sell a firearm:

An increasing number of individuals engaged in the business of selling firearms for profit have chosen not to register as federal firearms licensees, as required by law. Instead, they have sought to make money through the off-book, illicit sale of firearms.

Dettelbach believes that anyone privately buying or selling a firearm is already a criminal who must be punished. All he needs is the illicit power to begin the punishment.

The same day that the ATF unloaded its plan to “clarify” who would be a gun dealer, Dudley Brown of the National Association for Gun Rights (NAGR) [saw through the façade](#):

The ATF and Biden are playing definition games with U.S. Code as a means to ban the



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private transfer of firearms. The language of this proposed rule gives the government near universal authority to prosecute anyone who transfers a firearm.

Universal Gun Registration is the not so hidden agenda of the anti-gun crowd in D.C., and they don't care how they get it.

Registration always leads to confiscation.

As time ran out on the phony "90-day comment period" required before the proposal becomes law, the National Rifle Association (NRA) voiced its complaint through a spokesman:

The Biden ATF's proposed rule ... is just another attempt to demolish our Second Amendment rights, with the potential to unjustly criminalize everyday Americans for engaging in lawful firearm transactions.

This rule blatantly disregards the recent NRA-backed *Bruen* ruling on the Second Amendment. It also creates serious confusion among lawful gun owners who buy and sell firearms legally for various purposes, from collecting to self-defense.

As usual, the NRA either ignored the existential threat posed by the proposed rule or soft-pedaled it so as not to alarm its members:

Many NRA members buy and sell firearms for various lawful purposes. Collectors buy and sell to enhance their collections. Competitive shooters buy and sell in search of a competitive advantage. And all exercise their right to buy and sell firearms, seeking arms that best fit their needs to defend themselves and their families.

But their freedom to do so is hindered by ATF2022R-17 (the "proposed rule") because it would create serious confusion about what firearm transactions can be conducted without first acquiring an FFL.

"Serious confusion?" Not by the ATF, which has for years moved ever closer to the moment in time when every legally owned firearm in the country becomes contraband, subject to confiscation.

It took a coalition of Republican attorneys general to warn gun owners of the real implications if the ATF were to have its way. [In a letter dated December 7](#) signed by 28 state attorneys general, they called out the proposal for being arbitrary and capricious:

The Bureau's proposed rule takes the unprecedented step of making any individual who sells a firearm "predominantly for profit" liable to civil, administrative, or even criminal penalties — unless the seller acquires a federal license.

The Bureau's definition of sale for profit is itself arbitrary and capricious. Beyond capricious, the proposed rule is capacious [i.e., excessively potentially expansionary].

The AGs declared that the proposed rule clearly violates the Second Amendment:

This overreach is both shocking and unconstitutional....



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This proposed rule seeks to require a license of every individual who sells a firearm for *anything* the Bureau sees as a profit to include currency, exchange of another firearm, or a service. [Emphasis in original.]

The ATF fails to mention the Second Amendment, or the recent ruling in *Bruen* by the Supreme Court which invalidates the ATF's proposal:

Despite the proposed rule regulating conduct that implicates the Second Amendment of the United States Constitution, the proposed rule does not at any point reference the term "Second Amendment." This omission demonstrates that there was no attempt by the Bureau to comply with the Constitution.

As the Bureau should be well aware, the Supreme Court recently clarified the framework for determining the constitutionality of a law or regulation under the Second Amendment. The Court explained that if the Second Amendment "covers an individual's conduct," any burden on that conduct is presumptively unconstitutional. The government can overcome that presumption only by showing "the regulation is consistent with this Nation's historical tradition of firearm regulation."

The proposed rule doesn't even attempt to do this.

The 27 attorneys general called out the ATF for its unserious attempt to call the rule change helpful in reducing gun violence:

If the Bureau were serious about combatting violent crime, it would focus on enforcing the laws that are already on the books to hold violent criminals accountable for their actions.

That would be the type of work that could save lives.

Unfortunately, the Bureau has instead targeted innocent people who sell firearms. That is not only unlawful but wrong and the Bureau must change course.

In their dreams. The ATF has been the communists' attack dog for decades, seeking to infringe, marginalize, and ultimately obliterate the private, God-given right to keep and bear arms on its way to creating a communist dictatorship in the United States.

The next steps are predictable: The ATF will announce that the rule is now in place, followed by lawsuits by various gun rights groups to rein in the rogue agency's latest attempt to violate citizens' rights under the U.S. Constitution.



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