



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405
www.atf.gov

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3311/303393

Mr. Stephen P. Halbrook:

January 23, 2017

This is in response to your letter to the Firearms Technology Industry Services Branch (FTISB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), with an accompanying sample of a Traditions, VORTEK Strikerfire model, in-line muzzle loading, antique firearm, manufactured in .50 caliber designed to use #209 shotshell primers with a sound moderating component attached. On behalf of your client SilencerCo, you request FTISB to determine if the submitted item is classified as a "firearm" per the provisions of the National Firearms Act of 1934 (NFA) or the amended Gun Control Act of 1968 (GCA).

As you know the Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines "**firearm**" as: (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

Also, the National Firearms Act (NFA), 26 U.S.C. § 5845(a) defines "**firearm**," as: (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

Additionally, the GCA, 18 U.S.C. 921(a)(24) defines the terms “**firearm silencer**” and “**firearm muffler**” as: *any device for silencing, muffling, or diminishing the report of a portable firearm including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.*

Also, the GCA §921(a)(16) defines the term “**antique firearm**” as: *(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or (B) any replica of any firearm described in subparagraph (A) if such replica – (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or (C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term “antique firearm” shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.*

After examination of the submitted sample, our Branch has determined that the subject sound moderator attached to the host antique firearm would not meet the definition of a “firearm” presented in the NFA or the GCA because it is not a device for reducing the report of a portable firearm. However, if any of the uniquely sized parts intended only for use in this sound moderator, were used for any other device, it may change this classification and be subject to review.

Additionally, the removal of the permanently affixed sound moderating device or any of its components, from the host antique firearm may result in the “making” of a firearm silencer under the GCA and NFA, and consequently must be registered with the National Firearms Act Branch. Also, if a sound moderator unit were to be fabricated separately it may be the making of a firearm silencer.

As previously stated, the removal of the sound moderator, or parts of the sound moderator, may result in the making of a silencer or a combination of parts designed and intended for use in assembling or fabricating a firearm silencer; and thus a “firearm” as defined in 26 U.S.C. § 5845(a)(7). FTISB personnel also noted the adhesive used to attach the forward end cap is not an approved method of permanent attachment. Please be aware, prior to such removal, an unlicensed individual would be required to obtain an approved ATF Form 1 (Application to make and register a firearm) and pay the \$200 making tax prior to any such redesign of the subject sound moderator.

You should also be aware that this determination is based on the sample as submitted. If the design, unique dimensions, configuration, method of construction, or materials used were to be changed, this classification would be subject to review.

Please provide our Branch with a FedEx account number or a UPS shipping label addressed to yourself so that we may return your samples. We caution that FTISB does not ship via the U.S. Postal Service.

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Curtis", with a stylized flourish at the end.

Michael R. Curtis
Chief, Firearms Technology Industry Services Branch.