



Are You Compliance Ready for the Holiday Season?

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Today's Agenda

- The first step toward compliance
- Holiday rule #1
- Potential holiday sales scenarios
 - Long gun purchases by out-of-state residents
 - Sales to snowbirds and other dual-state residents
 - Sales to active-duty military personnel
 - Internet sales
 - Special orders
 - Gifts
- Recordkeeping during the holidays
- Questions

The First Step Toward Compliance

Get the acquisition entry correct from the beginning!

Manufacturer **AND** Importer (if imported)

NOTE: In the overwhelming majority of cases, the **ONLY** way to make this determination is to look at the firearm itself. (Hint: If you see the name of a foreign country on the firearm, you will almost always also see the names of the foreign manufacturer and the US importer.)

Model (if marked)

Serial number

Type (pistol, revolver, rifle, shotgun, silencer PGF, NOT pump or semi-automatic, etc.)

Caliber or gauge

NOTES: Completed rifles and pistols built on an AR receiver or frame marked multi caliber should show the caliber of the barrel, not multi.

Complete and accurate firearms descriptions are essential to successful compliance all year. From that original acquisition entry to the final sale of that firearm, everything else follows. Get it right!

Integrally suppressed firearms require TWO separate entries in the acquisition record and in Section A of Form 4473, and a NICS or state check must be run on the rifle or pistol that is suppressed.

Holiday Rule #1

TAKE YOUR TIME!

Long Gun Purchases by Out-of-State Residents

- FFL's close to a state border may sell long guns to residents of a nearby state on a routine basis; however, during the holidays, these kinds of purchases can become more widespread.
- Taking the time to ensure your sale is lawful could mean the difference between being an FFL next year and not. Under the ATF Zero Tolerance Policy, a non-compliant sale to an out-of-state resident is considered a sale to a prohibited person, and that is grounds for revocation of your license.
- The sale of a long gun to an out-of-state resident must comply with three sets of laws: Federal laws, the laws of the state where you are licensed, AND the laws of the state where the buyer resides. You, the FFL, are responsible for ensuring that compliance.
- NSSF Compliance Consultants receive many questions on this, sometimes with an out of state customer at the counter.
- We are going to review the rules for such sales, but the first rule is the most important: if you are not certain that the sale is legal, do not make it!

Long Gun Purchases by Out-of-State Residents, cont.

- FFL's can transfer long guns (complete rifles and shotguns) to residents of states other than the state where the FFL is located if the following conditions are met:
 - The purchaser meets in person with the FFL at the FFL's licensed premises to make the sale and delivery of the firearm.
 - The FFL conducts a background check through NICS or state agency.
 - The purchaser and FFL complete an ATF Form 4473.
 - The sale and delivery of the firearm fully complies with the laws of the FFL's state and the state of residence of the purchaser, as well as the Gun Control Act of 1968.
- Absent evidence to the contrary, FFL's are presumed by law to have actual knowledge of the state laws & published ordinances of both states.

Long Gun Purchases by Out-of-State Residents, cont.

- Since by law you are presumed to have knowledge of both states' laws, do not make the sale if you are not sure it is legal.
 - ATF has an on-line publication, 'State Laws and Published Ordinances' that it updates when new laws are passed. You should become completely familiar with the laws of your state.
 - Before selling to an out of state resident, you can check the ATF publication or with the A.G. or maybe the State Police of the state in question to find out what restrictions are in place.
 - You must comply with any and all restrictions placed on buyers by the laws of their state of residence; *e.g.* waiting periods, 21-year age requirements to purchase a long gun, state firearm owner's card, legality of firearm, etc.

Dual State Residents

- A somewhat uncommon sale involves persons who have residences in two states. Can they buy firearms in both states?
 - The answer is yes. If they reside in both states for periods of the year, while they are in residence in one of the states they can purchase a firearm in that state. When they are residing in the other state, they can buy firearms there.
 - Mere ownership of property in a state does not convey the right to acquire firearms, they must have an actual residence.
 - Generally, such persons will have a driver's license for one state only. When they are residing in the second state, the valid out of state D.L. can be used to verify their identity, but they must provide FFL's with government-issued documentation that can be used to verify the address they enter on their Form 4473. A typical document that is often used is a property tax bill or receipt for the entered address.

Dual State Residents, cont.

- What about renting an apartment?
 - The valid out of state driver's license can be used to verify identity but the customer is going to have to produce a valid government-issued document with the apartment address on it. Could be a utility bill if the utility is government operated.
- What about staying in an RV park?
 - Some states allow **long-term** campers to call the space where they have parked their RV a residence address. Again, such a person would have to have a government-issued document to that address that an FFL could use to verify the address on a Form 4473.

Canadian “Snowbirds”

- What about Canadian “snowbirds”?
 - The valid Canadian driver’s license can be used to verify the customer’s identity. In addition, the customer will have to produce a valid government-issued document with the residence address on it so that the FFL can verify what is on the Form 4473.
- Canadians also must establish that they were lawfully admitted to the United States on their most recent arrival.
 - To prove lawful admittance, the Canadian citizen will have to provide a valid USCIS form I-94, Arrival/Departure Record.
 - This is true even if they have a valid handgun permit issued by the state and no NICS check is required.
 - Generally, Canadians are not required to obtain an I-94 when they enter the United States.
 - However, they can apply for an I-94 at the web address below:
 - <https://i94.Cbp.Dhs.Gov/I94/#/home>

Sales To Active-duty Military Service Members

- For those of you near a military installation, sales to military service members may be commonplace.
- For many FFL's, such sales are infrequent, even rare.
- Consequently, these FFL's often do not handle these sales correctly when they do come up.
- The holiday season is a time when they could increase, so know what you must do and ensure your employees know how to handle them, too.

Sales To Active-duty Military Service Members, cont.

- If the active-duty member possesses a valid driver's license that is issued by the state in which your FFL premises are located, no additional valid ID documentation is required. The sale is handled just as any other sale to a resident of your state.
- If the active-duty member has no drivers license in the state where you are licensed, what documentation are you required to get?
 - The Military ID (DOD CAC) is the government-issued photo ID, and it is listed in question 26a. (DO NOT list their out-of-state DL in question 26a!)
 - The Permanent Change of Station (PCS) Orders for a military base in your state establish residency in your state, and they are listed in question 26c.

Sales To Active-duty Military Service Members, cont.

- What if the service member lives in a different state?
 - An active-duty member is stationed in Ft. Moore, Georgia and lives in Alabama. He or she may purchase a firearm (to include a handgun) in either state, but when purchasing a firearm in Alabama, he/she must comply with ID requirements in the same way as any other Alabama resident. The purchase of a handgun in Georgia is handled as described on the previous slide.
 - If they have no Alabama DL, they can provide a Military ID, but they must also present supplemental government-issued documentation to verify their Alabama residence address, *e.g.*, State ID, vehicle registration, voter registration card, local public library card, tax bill, etc.

On-line & Special-order Transfers

- On-line sellers/shippers
 - Your sales form should record the full name, address and DOB of the buyer.
 - You should record information on the credit card used, including the card holder, which must be the buyer.
 - You should obtain a scanned copy of the buyer's driver's license or other ID used.
 - If the customer buying the firearm asks you to advise the receiving FFL to transfer the firearm to any person other than themselves, the buyer, do not ship the firearm.

On-line & Special-order Transfers, cont.

- On-line sellers/shippers
 - Your website should be set up so that the buyer is required to check boxes electronically by which they declare that (1) they are purchasing the firearm for themselves and (2) that they are not prohibited by federal or state law from receiving and possessing firearms.
 - Before shipping the firearm, you must by regulation obtain a copy of the receiving FFL's license (unless you already have a copy on file that is not expired). Failure of shippers to obtain the required FFL copy is a very common occurrence.
 - Most importantly, the shipper should include not only a copy of their FFL, but also the above-mentioned information about the buyer, including a copy of the buyer's driver's license inside the box in which the firearm is shipped. This information can also be emailed to the receiving FFL.
 - No FFL wants to receive a 'gun in a box' without information, but it is happening every day.

On-line & Special-order Transfers, cont.

- Transferring FFL's

- Do not log the firearm into your A&D record until you actually receive it!
- If you log it in ahead of receipt and it takes a while to get to you, and if ATF conducts a compliance inspection before you receive it, they will take inventory, and you will be cited for an inaccurate A&D record.
- When the firearm arrives, if you cannot determine who the actual buyer is, contact the shipping FFL and find out the information. If you cannot get that information, ship the firearm back to the FFL.
- Verify that the person who bought the firearm online is the same person who is going to receive the firearm.
- **Never** allow any person other than the buyer to complete form 4473 or undergo a NICS/POC check.

On-line & Special-order Transfers, cont.

- One more item
 - With FedEx and UPS restricting the shipment of firearms by non-FFL's, some FFL's are providing (or selling) their shipping labels to individuals so the individual can ship their personal firearm(s) to other FFL's.
 - It seems to us that such an arrangement might put the FFL's shipping privileges at risk.
 - Regardless, if an FFL receives such a firearm without any further information in the box, they are going to record the firearm as coming from the FFL whose label was used when it did not.
 - This is a potential ATF compliance issue.

Gifts

- Gifts are the most common type of “special” sale you are likely to see during the holiday season.
- It is lawful for a person to purchase a firearm as a “legitimate” and “bona fide” gift for someone else.
 - NOTE: From the instructions on Form 4473, “A gift is not bona fide if another person offered or gave the person completing this form money, service(s), or item(s) of value to acquire the firearm for him/her, or if the other person is prohibited by law from receiving or possessing the firearm.
- It is up to you, the FFL, to do your due diligence and ensure the person who claims to be buying a gift is actually doing so.
- How you do that is up to you, but just as preventing a straw sale, asking qualifying questions is a good place to start.

Gifts, cont.

- A few questions you might ask are:
 - Who are you buying this firearm for?
 - What relation are they to you? (family, business associate, close friend, etc.)
 - What type of shooting do they do most often?
 - What other firearms do they own?
- Most importantly, satisfy yourself that the person standing in front of you is legitimately purchasing a bona fide gift before you make the sale.
- If you cannot do that, there is an alternative. Sell them a gift card for the value of the firearm. Selling a gift card takes all the risk out of the transaction. In addition, it has some advantages.
 - It ensures that the actual recipient of the firearm completes the Form 4473 and undergoes the background check.
 - In addition to that great compliance advantage, it has sales advantages for you.
 - It gives you the opportunity to ensure the person gets the exact firearm they want, and you may even be able to upsell them.
 - Additionally, you have the opportunity to sell add-ons that the person buying the firearm would not have bought.
- Gift cards are highly recommended by NSSF Compliance Consultants.

Recordkeeping During the Holidays

- Do not allow your recordkeeping to suffer or fall behind during the holidays!
- The busy season makes it easy to say customers first, records later. There may be no worse mistake you could make.
 - Remember this: To your customer, it is a firearm they want, maybe really badly. To you, it could mean the difference between feeding your family next year or not.
- Letting your recordkeeping fall behind can result in lost Forms 4473, firearms coming in from a supplier and getting sold before they ever get put in the A&D records, and significant inventory issues. Having piles of unfiled Forms 4473 lying around is a good way to lose one.
- Do whatever is necessary to ensure all your records are posted timely and that multiple handgun sales and multiple long gun sales (when required) get reported on the day they occur.

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- Compliance Hotline
- SHOT University Online
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- Member Benefit Provider Discounts
- Access to Programs Such as First Shots

Join Today!

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