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The Firearm Industry  
Trade Association

# STRAWMAN - A CUSTOMER YOU DO NOT WANT

**Tactics to Help FFLs Avoid  
Straw Purchase Sales**



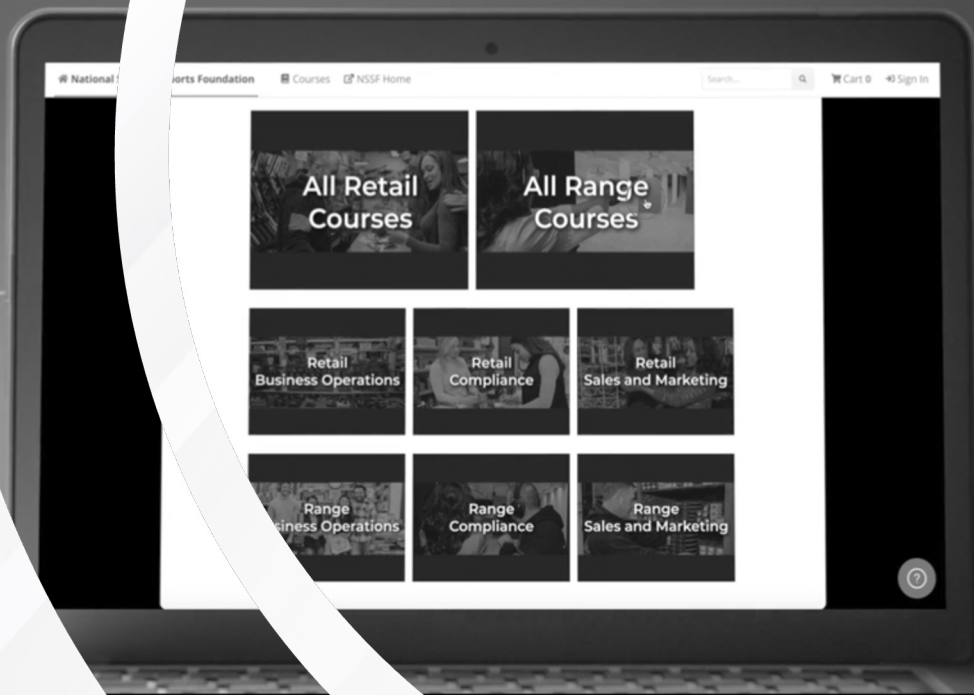
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# Strawman – A Customer You Do Not Want



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# Strawmen Want to Buy From You (And Do Not Care If You Get Hurt)

- Every FFL will be approached by strawmen; people who want to buy a firearm for someone unknown to you. You are kidding yourself if you think it is not happening to you.
- Don't be blind. FFLs selling to a strawman violate federal law, the business is aware of the false actual purchaser statement on the Form 4473.
- FFLs can face license revocation for selling to a straw purchaser that should have been prevented.
- FFLs have faced civil suits over straw sales where the firearm was used in a crime. The suits allege the FFL should have known that a straw sale was occurring.
- This presentation will cover common straw purchase approaches and provide guidance on how to protect your business by recognizing and stopping such attempts, as well as business practices that can help deter such sales.

# What is a Strawman, What is a Straw Purchase?

- Webster's Dictionary defines a strawman as "A person set up to serve as a cover for a usually questionable transaction."
- A straw purchase occurs when a firearm is transferred to a person who is not the actual buyer, and the actual buyer of the firearm
  - is either aware or believes that they are unable to pass the required federal background check,
  - or does not want his or her name associated with the purchase,
  - and has someone else, who can pass the required background check, purchase the firearm for him/her.

# The GCA Now Defines and Penalizes the Straw Purchasing of Firearms

- Until very recently the Gun Control Act of 1968 (GCA) did not define the terms “straw purchase” or “straw purchaser”. In June 2022 Congress enacted the ‘Bipartisan Safer Communities Act’, the provisions of which included the following:
- **§932. Straw purchasing of firearms**
- (b) Violation.-It shall be unlawful for any person to knowingly purchase, or conspire to purchase, any firearm in or otherwise affecting interstate or foreign commerce for, on behalf of, or at the request or demand of any other person, knowing or having reasonable cause to believe that such other person-
- (1) meets the criteria of **1 or more paragraphs of section 922(d)**;
- (2) intends to use, carry, possess, or sell or otherwise dispose of the firearm in furtherance of a felony, a Federal crime of terrorism, or a drug trafficking crime; or
- (3) intends to sell or otherwise dispose of the firearm to a person described in paragraph (1) or (2).
- Section 922 (d) makes it a crime to transfer a firearm to any person who is prohibited by the GCA from possessing firearms. The same prohibitions you see on Form 4473 every day.

# Penalties for Straw Purchasing

- (c) Penalty.-
- (1) In general.-Except as provided in paragraph (2), any person who violates subsection (b) shall be fined under this title, imprisoned for not more than 15 years, or both.
- (2) Use in felonies, crimes of terrorism, or drug trafficking crimes.-If a violation of subsection (b) is committed knowing or with reasonable cause to believe that any firearm involved will be used to commit a felony, a Federal crime of terrorism, or a drug trafficking crime, the person shall be sentenced to a term of imprisonment of not more than 25 years.

# 18 U.S.C. § 922 (a) (6)

- The new straw purchase statute strengthens federal law and the penalties for persons who lie to an FFL. § 922 (a) (6) has been ‘on the books’ since 1968 and is commonly referred to in ATF as ‘lying and buying or lying and trying’. The maximum penalty upon conviction is 10 years imprisonment.
- “It shall be unlawful for any person in connection with the **acquisition or attempted acquisition** of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector,
  - knowingly to make any false or fictitious oral or written statement,
  - or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;”



# FFL's Responsibilities in Transferring a Firearm to a Non-Licensee

- Record the firearm(s) to be transferred in Section A before section B is completed.
- Have the transferee complete, sign and date Section B of Form 4473, and section D, if the transfer occurs on a different day from the date the transferee signed in Section B.
- Verify the identity and residence address of the transferee via examination of the identification document(s) presented by the transferee.
- Record information about the identification document and additional address and name verification documents (if any) in Section C.
- Contact NICS or State POC, if required, and record NICS check information in Section C.
- If the transferee is exempt from a NICS check because the firearm is an NFA firearm, or if the transferee possesses a permit qualified by ATF as an exemption to a NICS check, complete block 28 or 29 respectively.
- Complete Section E. Instructions on Form 4473 state that the person transferring the firearm should sign and date the Form 4473. If the NICS check response is 'denied' the person who completed Section C should complete blocks 34 and 35.

# Section E - Certification of Transferor

- When the Form 4473 is signed and dated by the employee of the FFL, the FFL is certifying that it is not unlawful to transfer the firearm(s) listed on the form to the person identified in Section B of the Form.
- While all parts of ATF Form 4473 are important, in our opinion, the signed certification is the most significant part of Form 4473, because the FFL or employee is stating that they have determined it is not unlawful to transfer the firearm.
- Here is the certification: I certify that: (1) I have read and understand the Notices, Instructions, and Definitions on this ATF Form 4473; (2) the information recorded in Sections A, C and E is true, correct, and complete; and (3) this entire transaction record has been completed at the licensed business premises (“licensed premises” includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless this transaction has met the requirements of 18 U.S.C. 922(c). Unless this transaction has been denied or cancelled by NICS or State agency, I further certify on the basis of — (1) the transferee’s/buyer’s responses in Section B (and Section D, if applicable); (2) the verification of the identification recorded in question 26 (and the re-verification at the time of transfer, if Section D was completed); and (3) State or local law applicable to the firearms business — it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section B.
- When a Form 4473 is properly completed, it is the FFL’s best protection against charges or lawsuits resulting from the misuse of that firearm by the buyer or a third party.

# NSSF's Don't Lie For The Other Guy Program



- The “Don’t Lie” program, a partnership between the National Shooting Sports Foundation and ATF, is designed to help employees of FFLs recognize attempted straw purchases and to help educate the public not to become a straw purchaser.
- NSSF has annual public education campaigns in several cities, which includes “Don’t Lie” bus signs and other advertising.

# NSSF's Don't Lie For The Other Guy Program



**BUY A GUN  
FOR SOMEONE  
WHO CAN'T  
BUY 15 YEARS IN JAIL**

DontLie.Org

**DONT LIE** BUY A GUN FOR SOMEONE WHO CAN'T,  
BUY YOURSELF 15 YEARS IN JAIL.



The National Shooting Sports Foundation (NSSF) and Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) are proud to offer the long-standing national campaign to help prevent and deter the illegal "straw" purchase of firearms. Featuring the theme, Don't Lie For The Other Guy.

This campaign is a joint effort designed to assist ATF in tracking firearms received to better identify and deter potential straw purchasers and to educate the public on the consequences of purchasing a firearm for someone who legally cannot. A "straw purchase" occurs when the actual buyer of a firearm uses another person, the "straw purchaser," to acquire the firearm. This is illegal under federal law. Possession of a Federal Firearms License (FFL) is a national initiative that brings together law enforcement, industry and retail to reduce the number of guns used in criminal activity. Don't Lie For The Other Guy is easily adopted by members of the firearms industry through NSSF.

The enclosed kit is designed to help educate the retailer and give potential straw purchasers to the unique consequences of illegally buying a firearm for another person that is prohibited or is otherwise unwilling to purchase one themselves. Please visit [www.dontlie.org](http://www.dontlie.org) online or to search states which operate many of the most common methods straw purchasers use to illegally obtain firearms for another person.



**BUY A GUN  
FOR SOMEONE  
WHO CAN'T  
BUY 15 YEARS IN JAIL**

NOTE: Don't Lie For The Other Guy is a trademark of National Shooting Sports Foundation, Inc. "Buy a Gun for Someone Who Can't, Buy Yourself 15 Years in Jail" is a trademark of the National Shooting Sports Foundation, Inc. © 2011 NSSF. All rights reserved.

DontLie.Org Celebrating 20 Years of Justice

A COOPERATIVE PROGRAM

NSSF

THE NATIONAL SHOOTING SPORTS FOUNDATION



ATF

BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES

U.S. DEPARTMENT OF JUSTICE

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- For FFLs, the goal of the program is to eliminate actual transfers to straw purchasers to the greatest extent possible.
- FFLs should shut down potential straw purchases when they recognize they are occurring.

# Read Your Customers

- Generally, there are two types of straw purchasers.
- The first is the person sent in to acquire the same firearm another person was recently denied for.
- They head right where the firearm is and announce that they want to buy it. No shopping, no haggling, no discussion.
- The second is a person sent in to acquire a firearm(s) for someone else without a specific firearm in mind.

# Possible Indicators of a Straw Purchase

- Attempted purchase of a firearm that was on the Form 4473 of a recent denial.
- Husband (or wife) denied, spouse then wants to buy same gun. The same scenario can be seen with other family members.
- Nervousness.
- Lack of knowledge about firearms or familiarity with the firearm they want to buy.
- Bulk or repetitive purchase of the same or similar firearms, especially non-collectible models.
- Customers desiring to “structure” handgun purchases to avoid their name being reported to ATF on multiple handgun sale forms.
- Purchases made with brand new identification documents.
- No previous purchases, but now a frequent buyer.

# More Indicators of a Straw Purchase

- No haggling or questions on price, especially for multiple purchases.
- Paying with large amounts of cash.
- Another person seen passing cash to the 'buyer'.
- Buyer being coached by another person on how to complete Form 4473, particularly if the other person is in another section of the store.
- Customer arriving in a car with out-of-state plates.
- Customer arriving in car with out-of-state plates, where driver and/or passengers remain in the car.
- Persons attempting to conceal conversations inside of shop.

# More Indicators of a Straw Purchase

- Scouting of firearms by the straw buyer with the actual purchaser.
- Taking/sending cell phone pictures of firearms to persons unknown to the FFL.
- Talking on a cell phone while looking at firearms.
- Talking on a cell phone in a foreign language.
- Talking to a buddy in a foreign language.
- A customer who avoids conversation with the FFL.
- A customer who is evasive when asked questions.
- Reluctance of the apparent buyer to complete Form 4473.



# The One Question You Should Ask

- In our opinion there is one question should be asked of all purchases.
- But certainly, if a sales associate has any doubts about the legality of any firearms sale, what question should they ask the purchaser?
- They should ask,  
“Now tell me, who are you buying this firearm for today?”

# Keep Track of Denials

- Many ATF Industry Operations Investigators have put more emphasis on inspecting Forms 4473 where the background check resulted in a NICS denial.
- Many will check to see who ultimately received the firearm listed on the denied Form 4473 and will try to determine if there is a link between the denied person and the transferee and, hence, a possible straw sale.
- We recommend that FFLs keep track of denied persons, their addresses and the firearm on denied transactions for about a week or longer and that sales associates review it prior to making a firearms transfer.

# Quarantining Firearms

- Because the attempt by a relative of a denied person is common, many FFLs will 'quarantine' or move to back stock the firearm(s) associated with the denied person's Form 4473.
- This may not work for very large stores, but where it does work, the would-be straw purchaser will not find it and may be deterred at that point without any discussion with store employees.
- If they do ask about it, they are told that it has been sold.

# On-Line Sales

- On-line buyers will send in other persons to pick up the firearm for them.
- Only transfer firearms to the person who actually bought it from the shipping FFL.
- Do not allow the shipping FFL or individual to change the invoice to on who the buyer was.
- If you are the on-line seller of a handgun, get a copy of the DL of the buyer to verify age and address, so you have evidence the sale is legal.

# If a Straw Purchase is Suspected

- Ask questions of the purchaser.
- Salespersons should be empowered to trust their instincts. If it doesn't 'feel' right, it probably isn't.
- If possible, get Section B of Form 4473 completed by the would-be straw purchaser before shutting the sale down.
- Also, if possible, get a telephone number.
- Maintain complete records of the attempt.
- Employees should be trained to report the attempt to management or ownership ASAP.
- If directed by management, consult with the store's attorney to determine a course of action.
- FFLs that have good rapport with local competitors, report what happened to them. If they tried one store, they probably would try others.
- Willful blindness to a straw purchase is not an excuse for an FFL.

# If a Suspected Straw Purchase Has Occurred

- FFLs cannot be indifferent to a suspected or actual straw purchase made! They must act.
- Employees should report the situation to their management immediately.
- Immediately document exactly what happened and maintain these documents.
- Retain security camera footage of the sale, if available.
- We recommend consultation with an attorney before any contact is made with ATF.
- Your attorney may recommend that you attempt to get the firearm back from the buyer.

# Prevent Straw Sales

- Train employees on the regulations covering the transfer of a firearm and on Form 4473.
- Make sure they understand the instructions for Question 21. a.
- *Question 21.a. Actual Transferee/Buyer: For purposes of this form, a person is the actual transferee/buyer if he/she is purchasing the firearm for him/herself or otherwise acquiring the firearm for him/herself. (e.g., redeeming the firearm from pawn, retrieving it from consignment, firearm raffle winner). A person is also the actual transferee/buyer if he/she is legitimately purchasing the firearm as a bona fide gift for a third party. 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*
- Have standard procedures for the completion of Forms 4473. As previously mentioned, one could be asking all would-be purchasers should be asked “Who are you buying this firearm for?”
- Employees should consult with one another when they suspect a straw sale.
- Train employees on straw purchase indicators.
- Consider quarantining any firearm involved in a denied transaction. Straw purchasers often come in looking for that one firearm.
- Offer to sell gift cards, when people say they are buying the firearm as a gift.
- Have several persons review Forms 4473 before the transfer occurs.

# ATF FFL Revocation

- Per the Gun Control Act of 1968, as amended, an FFL can only be revoked for a willful violation of the act.
- Various United States Courts of Appeal have interpreted the word “willful” to mean the failure to perform a known legal duty.
- This is also known as “plain indifference” to a known legal duty.
- Obvious straw sales have been viewed by ATF as willful blindness or plain indifference.



# Do Not Let It Slide

- If an FFL determines that it made a straw sale of a firearm, it cannot let it pass without investigating to fully understand what happened and attempting correction.
- If ATF determines, from inspection, that an FFL made a willful straw sale, or turned a blind eye to what it should have detected, the agency may try to revoke the FFL.
- On the other hand, if FFLs follow up immediately on suspected straw sales, consults with an attorney, retrieves the firearm and relogs the firearm it might get cited for it, but the FFL could not be said to be “plainly indifferent” to its legal duties.

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