

United States Senate

WASHINGTON, DC 20510

November 23, 2020

The Honorable William P. Barr
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, D.C. 20530

Ms. Regina Lombardo
Acting Director
Bureau of Alcohol, Tobacco, and Firearms
99 New York Ave NE
Washington, D.C. 20226

Dear Attorney General Barr and Acting Director Lombardo:

We write to share our concerns about the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) practice of relying on non-public standards in its regulation of the importation of ArmaLite Rifle (AR) styled pistols and pistol stabilizing braces, and to ask for your attention to this important matter. We appreciate your prompt attention to this request.

ATF initially welcomed the advent of pistol arm braces. In 2012, ATF issued guidance which stated the attachment of arm braces to large pistol platforms does not constitute the manufacture of a short-barreled rifle. This determination, consistent with law, clarified that attachment of a pistol-affixed arm brace did not constitute the making of a Short Barreled Rifle (SBR) subject to registration requirements under the *National Firearms Act* (NFA), 26 U.S.C. §§ 5801–5872, and made these important safety tools more readily available to those who need them.

This year, that standard has been made less clear. Through private letters, ATF has indicated it now considers firearms with a “length of pull” of over 13-1/2 inches as being designed to be fired from the shoulder, and consequently classified as SBRs. Additionally, in letters to some gun manufacturers, ATF privately stated that even firearms which fall under this 13-1/2 inch length of pull can be classified as a short-barreled rifle based on a collection of “indicators,” of which a list has yet to be published. This year, ATF ordered at least one maker of AR pistols to “cease and desist” production because the bureau had re-classified the manufactured pistol as an SBR. The firearm industry has requested ATF provide the industry with an objective fact-based criteria, and while that original cease and desist order has since been temporarily suspended, the matter of concern remains for gun manufacturers and law-abiding gun owners across our country.

Given that SBRs are regulated under the *National Firearms Act*, the new classification could require gun-owners to purchase a tax stamp in order to remain compliant within the law. By privately disclosing this new classification to gun manufacturers only, ATF's actions could place millions of American gun owners out of compliance with law overnight. Consequently, actions like this could have the effect of inhibiting the exercise of Americans' Second Amendment rights.

Accordingly, we respectfully request the following information no later than December 7, 2020:

1. All internal instructions, directives, or guidance to any and all employees and/or contractors assigned to or working with the Firearms & Ammunition Technology Division (FATD) (formally known as the Firearms Technology Bureau), containing the criteria, factors, or “indicators” to be used to make the

determination of whether a firearm is a pistol equipped with a stabilizing arm brace or an NFA firearm, e.g. "short barreled rifle" or a "short barreled shotgun" including without limitation "length of pull." This request seeks such documents, in whatever form, for both criminal and civil determinations.

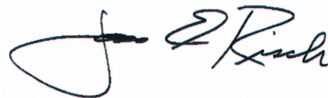
2. Copies of all publications through which the ATF has made such guidance and criteria available to gun-owning Americans and gun manufacturers.

ATF has a responsibility to clearly and distinctly articulate its position, in order to inform the public of changing regulations as soon as possible. A "know-it-when-you-see-it" approach to firearms by the ATF can quickly become a slippery-slope for all legal American gun owners as well as government firearm regulation enforcement. This is particularly true when ATF chooses to exercise its regulatory authority through informal and/or private opinions rather than formal rulemaking. Thank you in advance for your prompt response.

Sincerely,



Mike Braun
U.S. Senator



James E. Risch
U.S. Senator



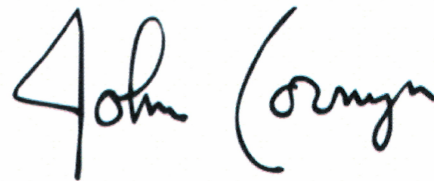
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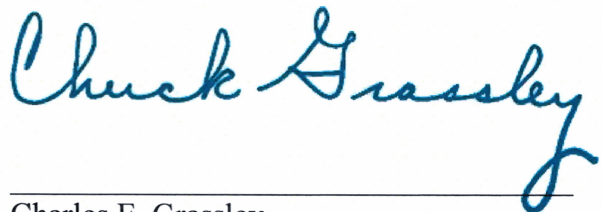
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