



Bureau of Alcohol, Tobacco, Firearms
and Explosives

DO I NEED A LICENSE TO BUY AND SELL FIREARMS?

**Guidance to help you understand
when a Federal Firearms License
is required under federal law.**

Updated August 2023*

The guidance set forth herein has no regulatory effect and is not intended to create or confer any rights, privileges, or benefits in any matter, case, or proceeding. See *United States v. Caceres*, 440 U.S. 741 (1979).

Key Points

- Federal law requires that persons who are engaged in the business of dealing in firearms be licensed by ATF. The penalty for dealing in firearms without a license is up to five years in prison, a fine up to \$250,000, or both.
- A person can be engaged in the business of dealing in firearms regardless of the location in which they conduct firearm transactions. For example, a person can be engaged in the business of dealing in firearms even if they conduct firearm transactions only at gun shows or through the Internet.
- Whether you are “engaged in the business” of dealing in firearms depends on the specific facts and circumstances of your activities.
- While quantity and frequency of sales are relevant indicators, courts have upheld convictions for dealing without a license when as few as two firearms were sold, or when only a single transaction took place, when other factors were also present.
- As a general rule, you will need a license if you repetitively buy and sell firearms to predominantly earn a profit. (Note that this reflects a change made in 2022 by the Bipartisan Safer Communities Act, broadening the definition, from the previous general rule that you would need a license if you repetitively bought and sold firearms “with the principal objective of livelihood and profit.”) By contrast, if you make only occasional sales of firearms from your personal collection, you likely do not need to be licensed.
- Courts have identified several factors relevant to determining whether you need a license, including: whether you represent yourself as a dealer in or as a source of firearms; whether you are repetitively buying and selling firearms; the circumstances under which you are selling firearms; and whether you are looking to make a profit.

If you have any questions about whether you need a license under federal law, we recommend that you contact your local ATF office (<https://www.atf.gov>) to evaluate the facts and circumstances of your particular case.

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Federal firearms licensees
(FFL) are critical partners in
promoting public safety...

Introduction

The Federal Gun Control Act (GCA), codified at 18 U.S.C. §§ 922(a)(1)(A) and 923(c), requires that any person engaged in the business of dealing in firearms must be licensed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Federal firearms licensees (FFL) are critical partners in promoting public safety because—among other things—they help keep firearms out of the hands of prohibited persons by running background checks on potential firearms purchasers, ensure that guns used in crimes can be traced back to their first retail purchaser by keeping records of transactions, and facilitate safe storage of firearms by providing child safety locks with every transferred handgun and having secure gun storage or safety locks available any place where they sell firearms. A person who willfully engages in the business of dealing in firearms without the required license is subject to criminal prosecution, and can be sentenced to up to five years in prison, fined up to \$250,000, or both. See 18 U.S.C. § 922(a)(1)(A).

Determining whether your firearm-related activities require a license is a fact-specific inquiry. This guidance is intended to help you determine whether you need to be licensed under federal law.

Note that some states have more stringent laws with respect to when a state-issued license is required for selling a firearm. Please consult the laws of the applicable state to ensure compliance.

There are other laws and regulations that govern the transfer of firearms—both between unlicensed individuals and from licensed dealers (e.g., unlicensed sellers may only lawfully sell to persons within their own state, and it is unlawful for either licensed or unlicensed sellers to sell firearms to persons they know or have reasonable cause to believe cannot lawfully possess them). **All persons who transfer firearms, regardless of whether they are engaged in the business of dealing in firearms, must ensure that any transfers are in compliance with federal, state, tribal, and local laws.**

*This publication has been updated to reflect amendments made to the definition of “engaged in the business” by the Bipartisan Safer Communities Act, Public Law 117-159 (June 25, 2022). On September 8, 2023, ATF published a Notice of Proposed Rulemaking that would further clarify, among other things, what it means for a person to be engaged in the business of dealing in firearms. This publication may be updated in the future to reflect the outcome of that rulemaking.

Legal Framework

Q: Who needs a federal license to deal in firearms?

A: Under federal law, any person who engages in the business of dealing in firearms must be licensed.

Q: What does it mean to be “engaged in the business of dealing in firearms”?

A: Under federal law at 18 U.S.C. § 921(a)(21)(C), a person engaged in the business of dealing in firearms is a person who “devotes time, attention and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms.” In 2022, the Bipartisan Safer Communities Act (BSCA) revised this intent language to replace “with the principal objective of livelihood and profit” with “to predominately earn a profit.”

Section 921, as amended by BSCA, defines the term “to predominantly earn a profit” to mean “the intent underlying the sale or disposition of firearms is predominantly one of obtaining pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.” 18 U.S.C. § 921(a)(22). Section 921 explicitly provides, however, that the term “engaged in the business,” as it applies to a dealer of firearms, does not include a person who only “makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.” 18 U.S.C. § 921(a)(21)(C).

Q: Has ATF defined what it means to be “engaged in the business” of dealing in firearms?

A: In the near future, ATF will be publishing a revised regulatory definition in 27 CFR 478.11 for the term “engaged in the business” and adding a definition of “predominantly earn a profit” that conforms to the above-mentioned BSCA statutory revisions. The statutory definitions quoted above are the controlling standard, before and after that regulatory update occurs.



Gun Shows, Flea Markets, and Internet Sales

Q: What if I only sell firearms at flea markets, gun shows, or over the Internet?

A: A person can be engaged in the business of dealing in firearms regardless of the location in which firearms transactions are conducted, including where the person conducts firearms transactions only from a location other than a traditional brick-and-mortar store.

Many licensed gun dealers conduct business at temporary locations such as qualified gun shows or events and utilize the Internet to facilitate firearms transactions. The question under federal law is not where firearms transactions are conducted, but rather, whether— under a totality of the circumstances— the person conducting those transactions is engaged in the business of dealing in firearms. The factors listed in the Guidance section below apply to that determination regardless of where the firearms transactions occur.

The growth of new communications technologies and e-commerce enables sellers of firearms to advertise to an expansive market at minimal cost. While a collector or hobbyist may use the Internet and other communication technology to sell a firearm without a license (provided that they comply with all other federal and state laws and regulations), those engaged in the business of dealing in firearms who utilize the Internet or other technologies must obtain a license, just like a traditional dealer whose business is run out of a traditional brick and mortar store. Nonetheless, regardless of the location or the media a dealer uses to buy and sell firearms, to obtain a license, the dealer must have a fixed premises from which to conduct business and must comply with state and local laws regarding the conduct of that business. See 18 U.S.C. § 923(d)(1)(E); 27 CFR §§ 478.47(b)(5), 478.50.



Guidance

A. Overview

What activities require a dealer's license?

Federal law does not establish a “bright-line” rule for when a federal firearms license is required. As a result, there is no specific threshold number or frequency of sales, quantity of firearms, or amount of profit or time invested that triggers the licensure requirement. Instead, **determining whether you are “engaged in the business” of dealing in firearms requires looking at the specific facts and circumstances of your activities.** Courts have upheld convictions for dealing without a license when as few as two firearms were sold, or when only a single transaction took place, when other factors were also present.

As a general rule, you will need a license if you repetitively buy and sell firearms to predominantly earn a profit. By contrast, if you make only occasional sales of different second-hand firearms to enhance your personal collection, you likely do not need to be licensed. In either case, all of your firearms transactions are relevant, regardless of their location or medium; it does not matter if you conduct sales out of your home, at gun shows, flea markets, through the Internet, or by other means.

As a general rule, you will need a license if you repetitively buy and sell firearms to predominantly earn a profit. By contrast, if you make only occasional sales of different second-hand firearms to enhance your personal collection, you likely do not need to be licensed.

B. Factors Identified by Federal Courts

Federal courts have identified several factors that can help you determine whether you must obtain a license. They include but are not limited to: whether you represent yourself as a source of firearms for purchase; whether you are repetitively buying and selling firearms; the circumstances under which you are selling firearms; and whether you intend to make a profit.

Some relevant factors: whether you represent yourself as a source of firearms for purchase; whether you are repetitively buying and selling firearms; the circumstances under which you are selling firearms; and whether you are looking to make a profit.

Are you representing yourself as a dealer in firearms?

Perhaps the clearest indication of whether a person is “engaged in the business” of dealing in firearms can be found in what he or she represents to others. Some factors that may demonstrate that you are engaged in the business of dealing in firearms include: representing yourself as a source of firearms for customers, taking orders, and offering to buy firearms to resell. Your intent to deal in firearms can also be reflected by undertaking activities that are typically associated with businesses—for example, creating a business entity or trade name for your firearms activity, securing state or local business licenses to sell items that may include firearms, purchasing a business insurance policy or rider to cover a firearms inventory, commercial advertising, keeping records of profit and losses, printing business cards, registering a web domain or social media account from your business, setting up merchant accounts or digital wallets, and accepting credit card payments.

Are you repetitively buying and selling firearms?

As noted above, there is no specific threshold number of firearms purchased or sold that triggers the licensure requirement. Similarly, there is no “magic number” related to the number or frequency of transactions that indicates whether a person is “engaged in the business” of dealing in firearms. It is important to note, however, that **even a single firearm transaction, when combined with other evidence (such as an offer to obtain and sell additional firearms), can be sufficient to establish that a person is “engaged in the business” of dealing in firearms.** For example, courts have upheld convictions for dealing without a license when only one or two transactions took place. That said, courts have looked at both the quantity of firearms sold, as well as the frequency of sales, as relevant indicators. When combined with other factors, selling significant numbers of firearms or engaging in frequent transactions may be highly indicative of business activity.

What are the circumstances under which you are selling firearms? Are you selling shortly after acquiring them? Repeatedly selling the same type of firearm? Or repetitively selling new firearms?

In addition to the volume and frequency of firearms transactions, the timing and circumstances surrounding firearms transactions are also significant indicators of whether a person is engaged in the business. Repetitively selling or offering to sell firearms shortly after they are acquired; restocking inventory; repetitively acquiring the same type of firearm or a significant quantity of the same type of firearm, and then reselling or offering to sell those firearms; and/or repetitively acquiring and reselling or offering to sell firearms in unopened or original packaging (or in new condition), are all factors which individually or combined may indicate a person is engaged in the business.



Are you looking to make a profit?

As noted above, if you are repetitively buying and selling firearms “to predominantly earn a profit,” you must be licensed. Note that this differs from the standard prior to BSCA’s statutory changes in 2022. That previous standard was, “with the principal objective of livelihood and profit.” However, the key under either standard is the seller’s *intent* or *objective* to earn a profit. On that basis, the courts have made clear that a person can be “engaged in the business” of dealing in firearms without *actually* making a profit. In determining whether a seller has the required intent or objective, courts have looked to different factors, including prices that an unlicensed seller charges for firearms.

In some cases, prices reflect appreciation in actual market value resulting from having held a firearm as part of a personal collection or reflect a profit intended to be used to acquire another firearm as part of a personal collection. As a result, the fact that a transaction results in a profit for the seller is not always determinative.

Finally, it is important to note that courts have found that you can be engaged in the business of dealing in firearms even if your firearm-related activities are not your primary business. In other words, you can still be engaged in the business of dealing in firearms “to predominantly earn a profit” if you have a full-time job and are buying and selling firearms to supplement your income. ATF regulations specifically note that the term “dealer” includes a person who engages in such a business on a part-time basis.



Does a Curio and Relics Collector's license (C&R license) allow me to be engaged in the business of dealing in firearms?

The C&R license does not authorize the licensee to repetitively buy and sell firearms with the predominant motive of making a profit. It does not matter if the firearms being bought and sold are curios or relics, or newer firearms. If a C&R licensee wishes to engage in the business of dealing in firearms, he or she must also apply for a different type of license that allows this activity. See 27 C.F.R. § 478.41(c), (d).

Do I need a license if I'm an auctioneer and simply auction guns for my customers?

If you repeatedly conduct auctions for firearms that are first consigned to you for sale, and you intend to make money from those sales, you need a license. If, however, you simply offer auctioneer services without having the firearms transferred to you (for example, you are hired by the representative of an estate to travel to the location of the estate, assist the estate in conducting an auction, and the firearms remain the property of the estate until transfer to the buyer), and you do not otherwise engage in the business of dealing firearms, you need not be licensed.





**The following examples
show how factors identified
by federal courts apply to
common fact patterns....**



Examples

While the determination of whether you require a federal firearms license is highly fact- specific, we provide the following examples to show how the factors identified by federal courts apply to common fact patterns. **Of course, the existence or absence of other facts not included in the examples may change the conclusion as to whether you are engaged in the business and therefore must be licensed; hence, these examples are provided solely as general guidance.** For the purposes of these examples, assume that the sellers comply with all other relevant federal and state laws and regulations (for example, any unlicensed person makes only lawful sales to persons who reside in the same state).

JULIAN inherits a collection of firearms from his grandfather. He would rather have cash than the firearms, so he posts them all online for sale. He makes no purchases, but over the course of the next year he sells all the firearms he inherited in a series of different transactions. Julian does not need a license because he is liquidating a personal collection.

KIERAN has a job outside the firearms industry, but to supplement his income, he has been buying firearms from friends and reselling them through an Internet site. He has successfully sold a few firearms this way and has several more listed for sale at any one time. Kieran must be licensed because he is repetitively buying and selling firearms to predominantly earn a profit.

AHMAD enjoys hunting and has a large variety of hunting rifles. He likes to have the newest models with the most current features. To pay for his new rifles, a few times a year Ahmad sells his older weapons to fellow hunters and makes a profit. Ahmad does not need to be licensed because he is engaging in occasional sales for enhancement of his personal collection.

DANYA travels to flea markets the first Saturday of every month, buying undervalued goods, including firearms. The last Saturday of every month, Danya rents a booth at the flea market and sells her items at market value for a profit. She hopes to make enough money from these sales to finance a trip to Italy next year. Danya must get a license because she is repetitively buying and selling firearms to predominantly earn a profit.

VIOLETTE regularly travels to gun shows around her state, rents space, and sells firearms under a banner stating, “liquidating personal collection.” Most of the firearms Violette offers for sale she purchased from a licensed dealer in the prior weeks. Violette is retired and hopes to supplement her income with the money she makes on the sales, although she has yet to turn a profit. Violette must get a license because she is repetitively buying and selling firearms to predominantly earn a profit.

ERIKA has three handguns at home and decides that she no longer wants two of them. She posts an advertisement in the local newspaper and sells the two handguns to a local collector. Erika does not need a license because she is not engaging in the repetitive purchase and resale of firearms as a regular course of trade or business.

EUGENE regularly attends gun shows and rents a table to display firearms for sale. He gets firearms from a variety of sources, carefully logs each purchase into a book, and uses the purchase price to set a sales price that will realize him a net profit. Eugene accepts credit card payments and typically sells multiple firearms at each of the gun shows he attends each year. Eugene must be licensed because he is repetitively buying and selling firearms to predominantly earn a profit.

ZOXY enjoys shooting sports and frequently goes to shooting ranges and hunting clubs. To make some extra money, she buys firearms from a dealer who is willing to give her a discount, and she resells them for a profit to acquaintances from the shooting ranges and hunting clubs. Zoey has done this a few times a month for the last several months and has been spreading the word that she is a source for other firearms, including by passing out business cards with her name, phone number, and email. Zoey must get a license because she is repetitively buying and selling firearms to predominantly earn a profit.

RITA tells her neighbor Tom that she's thinking about getting a gun, so Tom shows her a handgun and offers to sell it to her. Rita doesn't like the look of the gun and decides not to buy it. Tom tells her that, if she gives him a few days, he can get whatever kind of gun she wants. Rita tells Tom the firearm she wants, and a few days later, Tom sells it to her in its original packaging at a marked-up price. Tom then asks Rita to spread the word to her friends that Tom can get them guns as well. Tom must obtain a license because he is intending to predominantly earn a profit by repetitively buying and selling firearms.



HOW DOES ONE GET A LICENSE TO BUY AND SELL FIREARMS?

Questions and Answers on Getting a Federal Firearms License

Q: How do I become licensed?

A: The license application (called the ATF Form 7) is straightforward and can be found here: <https://www.atf.gov>. In addition to the application itself, an applicant for a federal firearms license must also provide to ATF a photograph, fingerprints, and the license application fee, currently set at \$200 for the initial three-year period, and \$90 for each three-year renewal.



Q: What standards does ATF use to determine whether to give me a license?

A: Under 27 CFR § 478.47, ATF will approve an application for a federal firearms license if the applicant:

- Is 21 years of age or older;
- Is not prohibited from shipping, transporting, receiving, or possessing firearms or ammunition;
- Has not willfully violated the GCA or its regulations;
- Has not willfully failed to disclose material information or willfully made false statements concerning material facts in connection with the application;
- Has a premises for conducting business; and

Certifies that:

- the business to be conducted under the license is not prohibited by state or local law in the place where the licensed premises is located;
- within 30 days after the application is approved, the business will comply with the requirements of state and local law applicable to the conduct of the business;
- business will not be conducted under the license until the requirements of state and local law applicable to the business have been met;
- the applicant has sent or delivered a completed ATF Form 7/7CR, Application for License, to the chief law enforcement officer where the premises is located, notifying the officer that the applicant intends to apply for a license; and
- secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees.



Q: What obligations will I have once I become licensed?

A: Licensed firearms dealers are subject to certain requirements under federal law, including running background checks on any non-licensed person prior to transferring a firearm to that person (subject to narrow exceptions), keeping firearms transaction records so that crime guns can be traced to their first retail purchaser, and ensuring safety locks are provided with every handgun and available in any location where firearms are sold. See, e.g., 27 CFR Subparts F and H.

Licensees are also prohibited by law from knowingly transferring handguns to unlicensed persons who do not reside in the state where the licensee’s premises are located, and from knowingly transferring any firearm to underage persons and certain categories of “prohibited persons,” including, among others, felons, persons who were involuntarily committed to mental institutions, aliens who are unlawfully present in the United States, and persons convicted of a misdemeanor crime of domestic violence. Note that, due to statutory changes as part of BSCA in 2022, this last category now includes those whose offenses were committed against a person with whom they were in a current or recent former dating relationship (for more details, see the definition at 18 U.S.C. § 921(a)(33) (A)(ii)). Under federal law, licensees are subject to inspection and are also required to respond to requests for firearms tracing information within 24 hours.

This list is not all inclusive; more information about the requirements of having a federal firearms license can be found at <https://www.atf.gov> and by contacting your local ATF Office. A list of local offices can also be found at <https://www.atf.gov>.



Q: What if I don't need to be licensed, but I want to make sure a background check is run on a potential purchaser of my gun?

A: Private, unlicensed sellers can help ensure that potential purchasers are not prohibited from possessing firearms by using a licensed dealer to facilitate the sale and transfer of a firearm. For a small fee, many licensed dealers will facilitate a sale of a firearm between two unlicensed individuals. This service provides both customers and the community with assurance that individuals who want to purchase firearms undergo a comprehensive background check, which helps to ensure the buyer is not prohibited from possessing a firearm and can improve the ability of law enforcement to trace firearms if they are later recovered in connection with a crime. In 2016, ATF published a [guide](#) for licensed dealers to educate them on how to facilitate private sales, and published [ATF Procedure 2020-2](#), which provides further guidance. The decision to facilitate private sales is wholly voluntary on the part of the licensed dealer.

Additional information can be found at <https://www.atf.gov/firearms/definition-engaged-business-dealer-firearms>.

ATF Publication 5310.2
August 2023

