

Bureau of Alcohol, Tobacco, Firearms & Explosives



ATF LOUISVILLE | (502) 753-3400 | LOUISDIV@ATF.GOV | TWITTER: @ATFLOUISVILLE

KENTUCKY HOUSE BILL 153:

Federal firearms investigation guidance for Kentucky law enforcement

Kentucky House Bill 153 prohibits any state law enforcement officials from enforcing, assisting in the enforcement of, or otherwise cooperating in the enforcement of, a federal ban on firearms, ammunition, or firearms accessories. KRS 237.105(2).

The term “Federal ban” is defined as “a federal law, executive order, rule or regulation that is enacted, adopted, or becomes effective on or after January 1, 2021, or a new or more restrictive interpretation of a law that existed on January 21, 2021, that infringes upon, calls into question, prohibits, restricts, or requires individual licensure for, or registration of, the purchase, ownership, possession, transfer, or use of any firearm, ammunition or firearm accessory.” KRS 237.105(1)(b).

The two principal Federal firearms laws ATF enforces are the Gun Control Act (GCA) of 1968, 18 U.S.C. §§ 921-934 and the National Firearms Act of 1934 (NFA), 26 U.S.C. §§ 5801-5872.

While Kentucky peace officers must defer to the advice of the respective counsel for their agencies, ATF’s assessment is that the restrictions placed upon them with regards to working with ATF, either as designated ATF Task Force Officers or simply as state/local partners in joint investigative efforts, are largely unaffected by Kentucky HB 153. The overwhelming majority of the GCA was in effect prior to January 1, 2021. The most commonly enforced statute under the GCA is 18 U.S.C. § 922(g)(1), which bans the possession of firearms by convicted felons. Kentucky has a similar ban of the possession of firearms by convicted felons at K.R.S. § 527.040. The only amendments to the GCA enacted after January 21, 2021, were in the Bipartisan Safer Communities Act (Public Law 117-159), enacted on June 25, 2022. In particular, the new provisions codified at 18 U.S.C. §§ 932 and 933, related to the straw

KEY TAKEAWAYS

- *While Kentucky peace officers must defer to the advice of the respective counsel for their agencies, ATF’s assessment is that the restrictions placed upon them by HB 153, with regards to working with ATF either as designated ATF Task Force Officers or simply as state/local partners in joint investigative efforts, are largely unaffected by Kentucky HB 153.*
- *HB 153 prohibits state law enforcement from enforcing, or assisting in the enforcement of, a federal ban on firearms, ammunition, or firearms accessories. Federal ban is defined as “a federal law, executive order, rule or regulation that is enacted, adopted, or becomes effective on or after Jan. 1, 2021, or a new or more restrictive interpretation of a law that existed on Jan. 21, 2021.*
- *The two principal Federal firearms laws ATF enforces are the Gun Control Act (GCA) of 1968, and the National Firearms Act of 1934 (NFA).*

purchasing of firearms and the unlawful trafficking of firearms. ATF's assessment is that those two provisions, despite being enacted after January 21, 2021, do not fall within the purview of Kentucky HB 153 as they do not constitute a federal ban on firearms possession but rather involve other unlawful activities related to the acquisition of firearms or the unlawful trafficking of them. We note that Kentucky has a statute, K.R.S. 527.090, which bans the equivalent of "straw purchases" committed in violation of state or Federal law.

A provision of the Bipartisan Safer Communities Act which may be impacted by Kentucky HB 153 is the addition to the prohibition on the transfer of firearms to juveniles (meaning persons under the age of 18) who are subject to certain Federal firearms disabilities in the newly codified at 18 U.S.C. § 922(d). However, given the very limited extent of Federal investigations into juvenile matters, it would not appear this provision would create any significant conflicts for ATF's work with state peace officers and all involved can be made aware of this potential issue such that any state and local officers would not be involved in that very small subset of investigations.

The National Firearms Act has not had any amendments since January 21 2021, and typically would only involve state peace officers designated as Task Force Officers with ATF who are deputized as Deputy United States Marshals.

The primary area of concern for local and state officers in Kentucky as it relates to the impact of Kentucky HB 153, concerns more restrictive classifications of certain types of firearms by ATF — all of which are ongoing and at various stages of Federal litigation, to include the classifications of bump stock devices and forced reset triggers as machine guns, the new classification of stabilizing braces as short barreled rifles within the meaning of the NFA, and the new ATF definitions of frame or receiver. These are limited areas of investigative activity that can be managed such that state peace officers are not involved in any Federal investigative activities related to them.

ATF is a federal law enforcement agency within the United States Department of Justice and has primary jurisdiction of federal firearms offenses. ATF is responsible for investigating and enforcing the nations gun laws. In Kentucky, ATF prioritizes firearms related violent crime, unlawful possession and use of firearms, organized criminal activity, and investigating and disrupting firearms trafficking. Our mission is to protect the public by reducing violent crime, and we do that by working to keep firearms from those who are prohibited by law from possessing them. Strong partnerships between ATF and Kentucky law enforcement are critical to keeping the commonwealth safe. For more information, or if ATF can be of assistance to your agency, please contact your local ATF office.

Read House Bill 153 (KRS 237.105) in its entirety here: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=53544>

KEY TAKEAWAYS CONTINUED

- *The only amendments to the GCA enacted after Jan. 21, 2021, were in the Bipartisan Safer Communities Act. It is ATF's assessment the new provisions codified at 18 U.S.C. §§ 932 and 933 (related to the straw purchasing and unlawful trafficking of firearms) do not fall within the purview of HB 153, as they do not constitute a federal ban on firearms possession but rather involve other unlawful activities related to the acquisition of firearms or the trafficking in them.*
- *A provision in the Bipartisan Safer Communities Act which may be impacted by HB 153 is the addition to the prohibition on the transfer of firearms to juveniles who are subject to certain Federal firearms disabilities in the newly codified, 18 U.S.C. § 922(d). However, given the very limited extent of federal investigations into juvenile matters it would not appear this provision creates significant issues for ATF's work with state peace officers.*
- *The National Firearms Act has not had any amendments since Jan. 21, 2021*
- *The primary area of concern as it relates to the impact of HB 153, concerns more restrictive classifications of certain types of firearms by ATF — all of which are ongoing and at various stages of Federal litigation, to include the classifications of bump stock devices and forced reset triggers as machine guns, the new classification of stabilizing braces as short barreled rifles within the meaning of the NFA, and the new ATF definitions of frame or receiver. However, these are limited areas of investigative activity which can be managed such that state peace officers are not involved in any Federal investigative activities related to them.*