

THE CALIFORNIA SHOTGUN IDENTIFICATION FLOW CHART



Definition of Terms
 AOW: "Any Other Weapon"-26 U.S.C §5845(e)
 AW: "Assault Weapon"-PC§ 12276(b)
 SBS: "Short Barrelled Shotgun" PC§12020(c)(1)

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* **Roberti-Roos Assault Weapons Control Act of 1989**
 The registration deadline for **assault weapons listed** in the Roberti-Roos ban was March 31, 1992.

* **Senate Bill 23 (SB-23)**
 The registration deadline for assault weapons as "**defined by characteristics**" in SB-23 was December 31, 2000.

* **ATF Ruling 2001-1**
 the registration deadline for the **USAS-12, Striker-12, and Streetsweeper shotguns** was May 1, 2001. No further registrations will be accepted after that date.

CA Definition of Shotgun

"As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

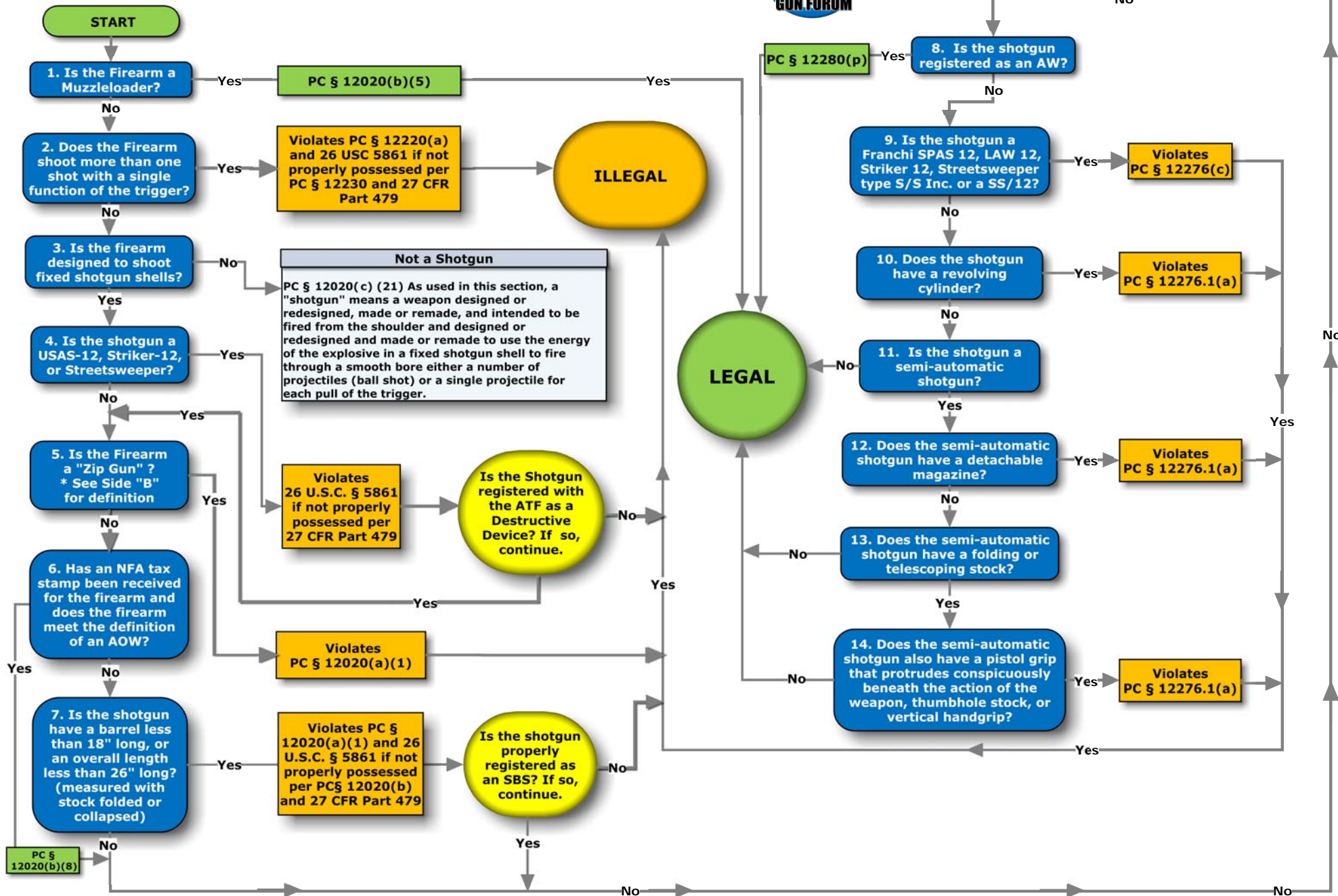
(Penal Code § 12020(c)(21).)"

***Detachable Magazines**

Note: A firearm equipped with a Magazine lock, such as a Bullet Button, MAG-LOCK, Raddlock, Range-Maglok™®, or other similar device, does not have a magazine that meets the criteria of a **detachable magazine** as defined in CCR 11 § 5469 (a).

A Shotgun equipped with a magazine lock requires a **tool** to remove the magazine from the firearm.

Therefore, the magazine is not legally considered "**detachable**", and would be considered a "**fixed**" magazine.



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Harrott vs County of Kings (2001) 25 Cal. 4th 1138

...a trial court may not find a semiautomatic firearm a series assault weapon under section 12276, subdivision (e), unless the firearm has first been included in the list of series assault weapons promulgated by the Attorney General pursuant to section 12276.5, subdivision (h)

The 3 categories of an assault weapon in California

Category 1 - are firearms listed on the original **Roberti-Roos assault weapons list** PC section 12276 (a), (b), and (c).

Category 2 - was the legally ambiguous definition targeting AR and AK "series" firearms in PC 12276(e). This definition was modified by the California Supreme Court in 2001 in what is known as the **Harrott v. County of Kings (2001) 25 Cal.4th 1138**. The DOJ was required to create an additional list of firearms by make and model. It is available in CCR 11 § 5499 and is sometimes referred to as the "series list". Then came **AB2728**, which prevents the DOJ from ever updating the list after Jan 2007.

Category 3 - are defined by characteristic features listed in PC 12276.1. These are sometimes referred to as "**SB23 features**" (Senate Bill 23).

Definition of Assault Weapon Roberti-Roos Assault Weapons Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004.

§ 12276

As used in this chapter, "assault weapon" shall mean the following designated semiautomatic firearms:

- (c) All of the following specified shotguns:
- (1) Franchi SPAS 12 and LAW 12.
 - (2) Striker 12.
 - (3) The Streetsweeper type S/S Inc. SS/12.

Characteristics of a Assault Weapon PC § 12276.1 (a)

§ 12276.1 (a) Notwithstanding PC section 12276, assault weapon shall also mean the following:

- (6) A semiautomatic shotgun **that has both of the following**:
- (A) A folding or telescoping stock.
 - (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- (7) A semiautomatic shotgun that has the ability to accept a detachable magazine.
- (8) Any shotgun with a revolving cylinder.

2008 Dangerous Weapons Control Laws Title 2 of Part 4 of the Penal Code and Other Selected Code Sections

Unlawful Carrying And Possession Of Weapons

PC § 12020(a)(1) Article 2.

(a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

PC § 12020(b)

(b) Subdivision (a) does not apply to **any** of the following:

(2) The manufacture, possession, transportation or sale of **short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice** pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(5) For purposes of this section, "**antique firearm**" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(7) Any firearm or ammunition that is a **curio or relic** as defined in Section 478.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) **Any other weapon** as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

Definitions:

(c) (1) As used in this section, a "**short-barreled shotgun**" means any of the following:

- (A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.
- (B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.
- (C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.
- (D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C) inclusive.

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2008 Dangerous Weapons Control Laws Title 2 of Part 4 of the Penal Code and Other Selected Code Sections - Continued

PC § 12020(b) Continued

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria: (A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. (B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. (C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and Subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

PC § 12200 thru 12251 Machine Guns

ARTICLE 1. GENERAL PROVISIONS

* 12200. The term "machinegun" as used in this chapter means any weapon which shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

ARTICLE 2. UNLAWFUL POSSESSION OF MACHINE GUNS

* 12220. (a) Any person, firm or corporation who within this state possesses or knowingly transports a machinegun, except as authorized by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by both such fine and imprisonment. (b) Any person, firm, or corporation who within this state intentionally converts a firearm into a machinegun, or who sells, or offers for sale, or knowingly manufactures a machinegun, except as authorized by this chapter, is punishable by imprisonment in the state prison for four, six, or eight years.

ARTICLE 3. PERMITS

* 12230. The Department of Justice may issue permits for the possession, manufacture, and transportation or possession, manufacture, or transportation of machineguns, upon a satisfactory showing that good cause exists for the issuance thereof to the applicant for the permit, but no permit shall be issued to a person who is under 18 years of age.

Definition of Terms

AOW: "Any Other Weapon"

AW: "Assault Weapon"

SBS: "Short Barreled Shotgun" § 12020(c)(1)

DD: "Destructive Device" §12301(A)(3) & CFR Title 27 Part § 479.11

NFA: National Firearms Act

CFR: Code of Federal Regulations

U.S.C: United States Code

PC: California Penal Code

CCR: California Code of Regulations

CCR Title 11, Division 5, Chapter 39, Department of Justice Regulations for
Assault Weapons and Large Capacity Magazines

ARTICLE 2. DEFINITIONS OF TERMS USED TO IDENTIFY ASSAULT WEAPONS

§ 5469 - Definitions

The following definitions apply to terms used in the identification of assault weapons pursuant to Penal Code section 12276.1:

(a) "detachable magazine" means any ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine.

(c) "forward pistol grip" means a grip that allows for a pistol style grasp forward of the trigger.

(d) "pistol grip that protrudes conspicuously beneath the action of the weapon" means a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing.

(e) "thumbhole stock" means a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.

26 U.S.C. § 5861 Prohibited acts

§ 5861. Prohibited acts

It shall be unlawful for any person—

(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

(e) to transfer a firearm in violation of the provisions of this chapter; or

(f) to make a firearm in violation of the provisions of this chapter

How to legally acquire a NFA Firearm

(M2) How can an individual legally acquire NFA firearms?

Basically, there are 2 ways that an individual (who is not prohibited by Federal, State, or local law from receiving or possessing firearms) may legally acquire NFA firearms:

1. By transfer after approval by ATF of a registered weapon from its lawful owner residing in the same State as the transferee.

2. By obtaining prior approval from ATF to make NFA firearms.

[27 CFR 479.62-66 and 479.84-86]

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NFA SECTION III: Weapons Removed From The NFA As Collector's Items And Classified As Curios Or Relics Under The GCA

The Bureau has determined that by reason of the date of their manufacture, value, design and other characteristics, the following firearms are primarily collector's items and are not likely to be used as weapons and, therefore, are excluded from the provisions of the National Firearms Act.

Further, the Bureau has determined that such firearms are also curios or relics as defined in 27 CFR 478.11. Thus, licensed collectors may acquire, hold, or dispose of them as curios or relics subject to the provisions of 18 U.S.C. Chapter 44 and 27 CFR Part 478. They are still "firearms" as defined in 18 U.S.C. Chapter 44.

California Penal Code § 12301

(a) The term "destructive device," as used in this chapter, shall include any of the following weapons:

(3) Any weapon of a caliber greater than 0.60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled bore) conforming to the definition of a "destructive device" found in subsection (b) of Section 479.11 of Title 27 of the Code of Federal Regulations, shotgun ammunition (single projectile or shot), antique rifle, or an antique cannon. For purposes of this section, the term "antique cannon" means any cannon manufactured before January 1, 1899, which has been rendered incapable of firing or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade. The term "antique rifle" means a firearm conforming to the definition of an "antique firearm" in Section 479.11 of Title 27 of the Code of Federal Regulations.

CFR Title 27: Alcohol, Tobacco and Firearms PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS CHAPTER II—SUBCHAPTER B,C,E,F—PART 479

Subpart B—Definitions § 479.11 Meaning of terms.

Antique firearm. Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

Any other weapon. Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

Destructive device. (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) similar device; (b) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and (c) any combination of parts either designed or intended for use in converting any device into a destructive device as described in paragraphs (a) and (b) of this definition and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed or redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army under 10 U.S.C. 4684(2), 4685, or 4686, or any device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

Fixed ammunition. That self-contained unit consisting of the case, primer, propellant charge, and projectile or projectiles.

Shotgun. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

Subpart C—Administrative and Miscellaneous Provisions § 479.25 Collector's items.

The Director shall determine in accordance with 26 U.S.C. 5845(a), whether a firearm or device, which although originally designed as a weapon, is by reason of the date of its manufacture, value, design, and other characteristics primarily a collector's item and is not likely to be used as a weapon. A person who desires to obtain a determination under that provision of law shall follow the procedures prescribed in §479.24 relating to destructive device determinations, and shall include information as to date of manufacture, value, design and other characteristics which would sustain a finding that the firearm or device is primarily a collector's item and is not likely to be used as a weapon.

[36 FR 14256, Aug. 3, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

Subpart E—TAX ON MAKING FIREARMS § 479.62 Application to make.

No person shall make a firearm unless the person has filed with the Director a written application on Form 1 (Firearms)

Subpart F—TRANSFER TAX § 479.84 Application to transfer.

Except as otherwise provided in this subpart, no firearm may be transferred in the United States unless an application, Form 4 (Firearms), Application for Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury to transfer the firearm and register it to the transferee has been filed with and approved by the Director.

ATF Rulings

ATF Rul. 94-1
ATF Rul. 94-2
ATF Rul. 2001-1

