



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

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OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES

The Gun Control Act (GCA) generally prohibits any person from transferring firearms to any unlicensed person who they know or have reasonable cause to believe does not reside in the State in which the transferor resides. *See* 18 U.S.C. § 922(a)(5). Longstanding Federal firearms regulations at 27 C.F.R. 478.11 define the term “State of residence” differently for U.S. citizens and aliens. A U.S. citizen’s State of residence is the State in which he or she is present with the intention of making a home; while an alien is considered a resident of a State if he or she has resided in that State for a period of at least 90 days prior to the date of transfer with the intention of making a home. As you know, Federal firearms licensees (FFLs) are required to obtain documentation establishing that an alien legally in the United States has resided in the State continuously for at least 90 days prior to the transfer of the firearm. This documentation is currently recorded as a response to Question 20c of the Firearms Transaction Record, ATF Form 4473.

The Department of Justice (the Department) has recently concluded that, as a matter of law, applying a more stringent State residency requirement for aliens legally present in the U.S. than for U.S. citizens is incompatible with the language of the GCA. As a result, ATF will be revising the regulations in 27 C.F.R. Part 478 to conform to the Department’s conclusions by removing the separate 90-day residency requirement for aliens. Once the regulations have been revised, both U.S. citizens and aliens legally present in the U.S. will be subject to the same requirements for State residency and proof of residency. ATF is in the process of amending its forms to conform to the statute as well.

This process of amending the relevant regulations and forms will be completed as expeditiously as possible. Until that process is complete, however, the current regulations have the force of law. Accordingly, for the time being, FFLs should continue to use the current forms and abide by the current regulations.

ATF is committed to assisting you in complying with Federal firearms laws. If you have any questions, please contact ATF’s Firearms Industry Programs Branch at (202) 648-7190.

Chad J. Yoder
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