

June 9, 2021

The Honorable Merrick Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Marvin G. Richardson
Acting Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

Dear Attorney General Garland and Acting Director Richardson:

I strongly disagree with the recent notice of proposed rulemaking on “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces’” issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”). The proposed rulemaking would retroactively impact gun owners that lawfully purchased pistols with stabilizing braces under the ATF’s previous standards and force a new federal registration regime on future users of the accessory.

The stabilizing brace is used for a range of legitimate purposes. For many, the accessory helps reduce recoil, prevent injury, and allows individuals to more safely and accurately operate a pistol. The accessory also allows disabled individuals to more easily and safely control heavy pistols without assistance. The stabilizing brace is also in wide use. According to the Congressional Research service, “there are between 10 and 40 million stabilizing braces and similar components already in civilian hands,” and “[a]ltering the classification of firearms equipped with stabilizing braces would likely affect millions of owners.” CONGRESSIONAL RESEARCH SERVICE, HANDGUNS, STABILIZING BRACES, AND RELATED COMPONENTS, at 2 (April 19, 2021), <https://crsreports.congress.gov/product/pdf/IF/IF11763>.

The proposed rulemaking issued by the ATF purports to establish objective criteria for classifying these stabilizing braces. However, the standards are far from objective, but rather confusing and subjective. These ambiguous criteria could reclassify pistols with stabilizing braces into firearms subject to classification under the National Firearms Act, imposing upon owners a range of federal registration requirements and fees. And because the proposed rulemaking fails to notify millions of gun owners whether their firearm complies with federal law, it leaves law-abiding citizens guessing whether they are complying with the new standard or committing a federal crime.

The new federal registration requirement would not only be time-consuming and cumbersome, but also places an additional and unnecessary expense on Americans exercising a basic constitutional right. As the notice of proposed rulemaking admits, the estimated cost of complying with the proposed rule would be in the hundreds of millions of dollars. Yet this new regulatory regime does nothing to deter crime and only traps law-abiding gun owners in expensive red tape.

As the Supreme Court has made clear, the Second Amendment protects firearms “in common use.” *District of Columbia v. Heller*, 554 U.S. 570, 625-26 (2008); *see also id.* at 635 (The Second Amendment “surely elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.”). My office will consider all available options to stop this action and any effort to restrict Second Amendment rights.

Sincerely,

A handwritten signature in cursive script that reads "Ken Paxton".

KEN PAXTON
Attorney General of Texas