



# NEW YORK GUN DEALER TRAINING

January 27, 2023

## Definitions

- ❑ **FFL Dealer:** Any person (licensed by the Federal Bureau of Alcohol, Tobacco and Firearms, and Explosives) who engages in the business of purchasing, selling, keeping for sale, loaning, leasing or in any manner disposing of any rifle (except semi automatic rifle) or shotgun. Must be registered in New York as a Seller/Keeper of Ammunition in order to sell ammunition.
- ❑ **NYS Dealer:** Any person (licensed by NYS) who engages in the business of purchasing, selling, keeping for sale, loaning, leasing or in any manner disposing of any pistol or revolver, rifle or shotgun, semi automatic rifle, assault weapon, large capacity ammunition feeding device, or ammunition.
- ❑ **Firearm:** Any pistol/revolver, shotgun having barrel less than 18” in length, rifle having a barrel less than 16”, any weapon made by modifying a rifle/shotgun with overall length less than 26”, an assault weapon, any other weapon not otherwise defined by NYS Law.
- ❑ **Rifle:** Any weapon designed and intended to be fired from the shoulder and designed/intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, including muzzleloading rifles.
- ❑ **Shotgun:** Any weapon designed and intended to be fired from the shoulder and designed/intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth or rifled bore either a number of ball shot or a single projectile with each pull of the trigger, including muzzleloading shotguns.

## FFL without a NYS Dealer License are authorized to:

- ❑ Facilitate private party transfers of firearms, rifles, shotguns and muzzleloaders.
  
- ❑ Deal in rifles (**except semi automatic rifles**), shotguns and muzzleloaders.
  
- ❑ Sell ammunition if they register as a NYS Seller/Keeper of ammunition.

## NYS Dealers are authorized to:

- Facilitate private party transfers of firearms, rifles (including semi-automatic rifles), shotguns and muzzleloaders.
  
- Deal in firearms, rifles (including semi-automatic rifles), shotguns and muzzleloaders.
  
- Sell and/or transfer ammunition.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

Dealer must obtain a completed ATF Form 4473 (+ continuation sheet if more than three firearms, rifles or shotguns are involved in a single transaction).

- It is YOUR responsibility to make sure that the buyer or transferee provides ALL information required in each section of the ATF Form 4473.

ATF Form 4473 must be completed when you:

- Sell or trade a firearm, rifle or shotgun;
- Return a consignment or pawned firearm, rifle or shotgun;
- Loan or rent a firearm, rifle or shotgun for use away from your licensed premises; or,
- Transfer or dispose of a firearm, rifle or shotgun to a non-licensed person.

You may only transfer a firearm, rifle or shotgun to the person who completed ATF Form 4473, and **NOT** to a spouse, relative, or other representative of that person.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

You are NOT required to obtain an ATF Form 4473 for the following:

- Transfer of a firearm, rifle or shotgun to another FFL.
- The return of a repaired firearm, rifle or shotgun to the person from whom it was received.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

- ❑ Federal law requires that Dealers conduct a National Instant Criminal Background Check System (NICS) background check for every transfer of a firearm, rifle or shotgun to a non-licensee, unless the transferee qualifies for one of the exceptions listed in 18 U.S.C. 900(t)(3).
- ❑ Point of contact (POC) states conduct NICS background checks for some or all firearm, rifle and shotgun transfers.

Licensees can only deliver a firearm, rifle or shotgun to the person listed as the transferee on the ATF Form 4473 and NOT a spouse, relative, or other representative of that person.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

### **A NICS background check MUST be conducted before:**

- The sale or trade of a firearm/rifle/shotgun;
- The return of a consigned firearm/rifle/shotgun;
- The redemption of a pawned firearm/rifle/shotgun; and
- Any other non-exempt transfer of a firearm/rifle/shotgun.



## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

You are NOT required to conduct a NICS background check for:

- The transfer of a firearm, rifle or shotgun to another FFL.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

You may not sell or dispose of a firearm, rifle or shotgun:

- ❑ To a person other than the actual buyer or transferee.
- ❑ Persons who are prohibited from shipping, transporting, possessing, or receiving a firearm, rifle, shotgun or ammunition.
  - Straw purchaser: A “straw purchaser” is a person who is not the “actual buyer” of the firearm, rifle or shotgun; that is, a person who obtains a gun for another person.
  - Person who is federally prohibited: Someone under indictment or information, convicted of a crime punishable by imprisonment for a term exceeding one year, fugitive from justice, unlawful drug user or drug addict, adjudicated as a mental defective, committed to a mental institution, dishonorably discharged from the military, subject to a qualifying restraining order, person convicted of misdemeanor domestic violence, person who has renounced U.S. citizenship, aliens illegally or unlawfully in the United States, aliens admitted to the U.S. under a nonimmigrant license, sale in violation of state law or published ordinance.

**In addition to the Federal statutes, a person is prohibited from buying and/or possessing firearms/rifles/shotguns by NYS law when that person has been convicted of any of the following charges:**

- Serious offense misdemeanors as listed in NYS Penal Law 265.00(17);
- Hate crimes;
- Misdemeanor domestic violence offenses;

**OR**

- Persons prohibited by a court ordered TERPO/ERPO/Order of Protection.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

FFLs may transfer firearms, rifles and shotguns to other FFLs, including interstate transfers, without completing an ATF Form 4473. In these instances, the following procedures must be done:

- ❑ Transactions between licensees must be recorded in the Acquisition and Disposition (A&D) records of both licensees.
  
- ❑ The FFL who is buying the firearm, rifle or shotgun must furnish a certified copy of the license(s) to the selling FFL prior to the transfer of any firearm, rifle or shotgun. The certified copy must be mailed, emailed, or faxed.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

You may not sell or transfer a firearm directly to a non-NYS resident.

- You may sell a firearm to a non-NYS resident by shipping the firearm to a dealer in the buyer's state of residence.
  
- You may make an over-the-counter sale of a rifle or shotgun (except semi automatic rifles) to a non-resident of your state if the transaction complies with the Federal law, and the laws of your state and the buyer's state.

## Federal & NYS Laws on Firearm, Rifle & Shotgun Transfers

If you are transferring a firearm, rifle or shotgun to an out of state dealer, you must verify the identity by examining their identification documents **before** making the transfer to the dealer.

Proper ID is as follows:

- Document containing name, residence address, date of birth and a photo of the person;
- A document that was made/issued by or under the authority of the U.S. Government, a state or local/foreign government; or
- A document that is commonly accepted for the purpose of identification of individuals (i.e. valid driver's license).

## Recognize, identify, respond & report illegal purchases and fraudulent activity

The following classes of persons are prohibited by federal law from possessing, receiving, shipping, or transporting firearms, rifle, shotguns or ammunition:

- Those convicted of crimes punishable by imprisonment for over one year, except state misdemeanors punishable by two years or less.
- Fugitives from justice.
- Unlawful users of certain depressant, narcotic or stimulant drugs.
- Those adjudicated as mental defectives or incompetents, or those committed to any mental institution.
- Illegal aliens.
- Persons who have renounced their citizenship.
- Those persons dishonorably discharged from the Armed Forces.

## Recognize, identify, respond & report illegal purchases and fraudulent activity

The following classes of persons are prohibited by federal law from possessing, receiving, shipping, or transporting firearms, rifles, shotguns or ammunition:

- Persons less than 18 years of age for the purchase of a shotgun or rifle.
- Persons less than 21 years of age for the purchase of a firearm that is other than a shotgun or rifle.
- Persons subject to a court order that restrains such persons from harassing, stalking or threatening an intimate partner.
- Persons convicted in any court of a misdemeanor crime of domestic violence.
- Persons under indictment for a crime punishable by imprisonment for more than one year are ineligible to receive, transport or ship any firearm, rifle, shotgun or ammunition.
- Straw purchaser.

If you suspect that a transaction is a straw purchase, or there are suspicious circumstances surrounding the potential sale, you should not sell the firearm, rifle, or shotgun and you should notify your local ATF office.



## Recognize, identify, respond & report illegal purchases and fraudulent activity

Indicators of a potential straw purchase include, but are not limited to, the following prospective transferee/buyer behavior:

- Is accompanied by one or more individuals, including partners or family members.
- Is accompanied by one or more individuals who then suddenly leave.
- Is communicating with other individuals not present via phone, text or photos.
- Is uneducated about the gun(s) being transferred/purchased.
- Expresses no lawful purpose for the gun(s) being transferred/purchased.

## Recognize, identify, respond & report illegal purchases and fraudulent activity

Indicators of a potential straw purchase include, but are not limited to, the following prospective transferee/buyer behavior:

- Expresses no interest in the gun(s) being transferred/purchased.
- Is buying multiple guns, especially of the same or similar type/model.
- Has purchased several guns recently.
- Is not paying for the gun(s) themselves.
- Acknowledges the gun is for another individual and is not a gift.

## Recognize, identify, respond & report illegal purchases and fraudulent activity

### Educating Your Customers:

The ATF publishes a variety of literature that FFLs can furnish to customers to help them better understand their legal obligations as firearms owners, as well as practical steps they can take to help keep firearms, rifles and shotguns out of the hands of prohibited persons and facilitate the safe storage of firearms, rifles and shotguns.

- ❑ *Safety and Security for Firearms Owners* (ATF P 5300.22)- Educate on misuse of firearms, it is unlawful for any person to sell or deliver a firearm, rifle or shotgun to any person knowing or having reasonable cause to believe are prohibited from possessing or receiving a firearm, rifle or shotgun. ATF strongly encourages FFLs to assist unlicensed persons in facilitating private party transfers.
- ❑ *Youth Handgun Safety Act Notice* (ATF I 5300.2)- Prohibits the selling, delivering, or otherwise transferring a handgun to a person under 18.
- ❑ *Personal Firearms Record* (ATF P 3312.8)- Filled out and maintained by firearms owners of records for identification and reporting in case of theft/loss.

## How to recognize, identify, respond & report an individual who intends to use a gun for unlawful purposes, including self-harm

It can be difficult to determine if a customer intends on using a gun it to harm someone or themselves. However, there are some signs you can watch out for:

- The customer doesn't seem interested in how the gun works, doesn't ask questions, or ask about comparisons with similar models.
- The customer is a first-time buyer who doesn't know anything about guns.
- The customer makes odd or questionable statements or acts nervous or anxious.

### **What can you do?**

- Ask the customer questions. A conversation with the buyer may reveal any troubling motives behind the purchase.
- If in doubt, don't make the sale.
- If concerns over a certain customer persist, contact local law enforcement.

## How to prevent, respond & report theft or burglary of guns & ammunition

Missing guns from inventory are among the most commonly cited Gun Control Act violations and have an impact on public safety. These “open entries” are when you are unable to physically locate the gun in inventory or account for the gun’s final disposition.

To reduce or eliminate:

- ❑ Set aside all ATF Forms 4473 in a centralized location for each day’s sales and firearms, rifles and shotguns taken into your business. At the close of business, document in the A&D record the disposition and acquisition of each firearm, rifle or shotgun.
  
- ❑ Conduct a full inventory of firearms, rifles and shotguns on a regular basis.

## How to prevent, respond & report theft or burglary of guns & ammunition

### Lost or stolen guns:

- ❑ NYS law requires stolen or lost guns to be reported to an appropriate police agency **within 24 hours of the discovery** of said theft or loss.
- ❑ Licensees **MUST** report to ATF each missing, lost, or stolen firearm, rifle or shotgun from the licensee's inventory of collection **within 48 hours of discovery** by **calling (888) 930-9275** and forwarding an original Federal Firearms Licensee Firearms Inventory Theft/Loss Report, ATF Form 3310.11 to the appropriate ATF address.
- ❑ ATF encourages licensees to implement safety and security measures which include alarms and video surveillance systems.
- ❑ Review the shipment of all guns to ensure it contains all of the expected firearms, rifles and shotguns and to record acquisition immediately.
- ❑ An interstate "theft/loss" occurs when a firearm, rifle or shotgun that was shipped through a common carrier or the US Postal Service is lost or stolen in transit. ATF accepts voluntary reporting of the theft/loss of the firearm, rifle or shotgun from interstate shipments.

## How to prevent, respond & report theft or burglary of guns & ammunition

### Maintain structural security:

- Keep display cases locked during business hours.
- After business hours, remove all firearms, rifles and shotguns from display cases and place in a gun vault or in a secured/locked area of the premises at close of business.
- Make sure all doors and windows are locked.
- Block unsecured openings (e.g., block AC units in windows, chimney etc.).
- Safeguard walls and ceilings (e.g., install floor to ceiling steel mesh in the gun vault & exterior walls).
- Maintain exterior lighting and surrounding structures, shrubs and trees (make sure there is no easy access into the building such as by a dumpster).
- Install and operate alarms and video camera system and protect your alarm codes.

## How to prevent, respond & report theft or burglary of guns & ammunition

### Disaster Preparedness:

- Create and maintain a current set of records that includes insurance policies, supplier and contact list, and back up computer records.
- Create a list of employee phone numbers and give them a phone number so they can let you know they are OK in the event of a disaster.
- Secure inventory.
- Perform full inventory.
- Create a “Multi-hazard” disaster plan for fire, tornado, hurricane, flooding, looting etc.

#### **Protect Inventory:**

- Take every precaution available to protect firearms, rifles and shotguns from theft & loss with regular inventory.

#### **Basic Firearms Safety**

- Federal law requires that gun safety or locking devices be available for purchase and provided to anyone purchasing a firearm, rifle or shotgun.



## How to educate customers on gun safety and the safe handling and storage of guns and ammunition

### **Safe firearms handling and storage:**

- Treat every gun as if it is loaded.
- Always keep the muzzle of the gun pointed in a safe direction.
- Always keep your finger off the trigger and outside the trigger guard unless you intend to fire the weapon.
- Wear appropriate ear and eye protection when firing.
- Use child safety locks.
- Keep ammunition locked in a secure location.
- Familiarize yourself and obey all federal, State and local laws.

## How to educate customers on gun safety and the safe handling and storage of guns and ammunition

### Clearing/Unloading Firearms:

- Always keep muzzle pointed in a safe direction AND always keep your finger off of the trigger and outside the trigger guard while cleaning/unloading.
- Remove the magazine or other source of ammunition.
- Open the breech and visually as well as physically inspect the chamber to ensure the firearm is completely unloaded.
- Repeat twice!

Applicants for dealers, manufacturers or importer's licenses must certify that secure gun storage or safety devices will be available at any place where firearms, rifles or shotguns are sold to non-licensed individuals, and that the gun storage or safety devices are compatible with the firearms, rifles and shotguns offered for sale by the licensee.

## Security Plan

**Dealers must implement a security plan for securing firearms/rifles/shotguns that are in stock and in shipment that satisfies the following:**

- Firearms/rifles/shotguns shall be secured, other than during business hours in a locked, fireproof safe or vault or in a secured, locked area on the dealer's premises.
- Ammunition shall be stored separately from firearms/rifles/shotguns and out of reach of customers.
- Dealer's business premises shall be protected by a security alarm system installed and maintained by a security alarm operator licensed pursuant to Article 6D of the New York General Business Law. Security alarm shall be monitored by a central station, and shall provide complete protection and monitoring for entry/exit doors. Video recording devices shall be located at each entry/exit (from indoor and outdoor point of view) and each point of sale. Recordings shall be maintained for a period of at least two (2) years.

## Restricting Customer Access

- ❑ Dealers must exclude all persons under eighteen (18) years of age from any portion of the premises where firearms/rifles/shotguns/ammunition are stocked/sold, unless such person under eighteen (18) years of age is accompanied by a parent or guardian.
  
- ❑ Ammunition must be stored out of reach of customers.
  
- ❑ Handguns should not be accessible to anyone without first verifying that:
  - The customer holds a NYS Pistol/Revolver License; or
  - The customer is a Police/Peace Officer.

## Employee Training

Every dealer shall provide this training program to all employees as follows:

- New employees – within thirty (30) days of employment.
- Existing employees – on or before March 3, 2023.
- All employees annually thereafter.