

CHAPTER 15. PENALTIES AND SANCTIONS

Section 15.1 NFA.

15.1.1 Criminal. The acts prohibited by the NFA and prosecutable as Federal offenses are listed in 26 U.S.C. 5861(a) through (l). As provided by 26 U.S.C. 5871, any person who commits an offense shall, upon conviction, be sentenced to imprisonment for not more than 10 years or fined. Although the fine specified in the statute is an amount not exceeding \$10,000, an amendment to Federal law provides for a fine of not more than \$250,000 in the case of an individual or \$500,000 in the case of an organization.²²⁶

15.1.2 Forfeiture. Any firearm involved in any violation of the NFA is subject to seizure and forfeiture.²²⁷

15.1.3 Assessment of NFA tax. ATF may assess tax liabilities under the NFA, including penalties and interest, as provided by the Internal Revenue Code.²²⁸

Section 15.2 GCA.

15.2.1 Criminal. The criminal penalties for violations of the GCA are provided for in 18 U.S.C. 924. The criminal penalties in the GCA include both felonies and misdemeanors. As in the case of NFA offenses, fines for violation of the felony provisions would be not less than \$250,000 in the case of an individual or \$500,000 in the case of an organization. For misdemeanors, the fines would be not more than \$100,000 for individuals or \$200,000 in the case of organizations.

15.2.2 Forfeiture. The GCA also provides for the forfeiture of firearms and ammunition involved in certain violations of the GCA and other violations of the criminal laws of the United States in 18 U.S.C. 924(d).

15.2.3 License denial or revocation. ATF may issue a notice of denial of an application for a Federal firearms license where it determines that the applicant fails to meet the licensing requirements of 18 U.S.C. 923(d).²²⁹ It may also issue a notice of revocation of a license when it determines that an FFL has willfully violated the GCA or its implementing regulations.²³⁰ For the applicable procedures, see ATF's regulations in 27 CFR Part 478, Subpart E. Note that the courts have held that a person's conduct was "willful" where the evidence showed that the FFL knew of his legal obligation and disregarded or was plainly indifferent to that obligation.²³¹

Section 15.3 AECA

15.3.1 Criminal. Any person who (1) imports articles on the U.S. Munitions Import List without a permit, (2) engages in the business of importing articles on the List without registering as required, or (3) otherwise violates any provision of the regulations in

²²⁶ 18 U.S.C. 3571(b) and (c)

²²⁷ 26 U.S.C. 5872

²²⁸ 27 CFR 479.191

²²⁹ 27 CFR 478.47, 478.71

²³⁰ 18 U.S.C. 923(e); 27 CFR 478.73

²³¹ Bryan V. United States, 524 U.S. 184 (1998) [note: this is criminal case, not civil license revocation.]

27 CFR Part 447 shall, upon conviction, be fined not more than \$1,000,000 or imprisoned for not more than 10 years, or both.²³² The same penalties apply to a person who willfully, in a registration or permit application, makes a false statement of a material fact or fails to state a material fact.

15.3.2 Forfeiture. Whoever knowingly imports into the United States contrary to law any article on the U.S. Munitions Import List, or receives, conceals, buys, sells, or in any manner facilitates its transportation, concealment, or sale after importation, knowing the same to have been imported contrary to law, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both; and the merchandise so imported or the value thereof shall be forfeited to the United States.²³³

²³² 22 U.S.C. 2778(c)

²³³ 27 CFR 447.63