



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

JUN 25 2007 Washington, DC 20226

OPEN LETTER TO ALL KENTUCKY FEDERAL FIREARMS LICENSEES

The purpose of this open letter is to advise you that the recent amendment to what was formerly known as Kentucky's "contiguous state" law has no effect on Federal firearms laws and regulations. Your obligations in the conduct of your business under Federal law remain the same.

Change in Kentucky Law:

On April 7, 2007, Kentucky Governor Ernie Fletcher signed Kentucky House Bill 469 into law. The new law, codified as an amendment to Kentucky Revised Statute 237.020, now provides as follows:

- 1) Residents of the Commonwealth of Kentucky who are citizens of the United States shall have the right to purchase or otherwise acquire rifles, shotguns, handguns, and any other firearms which they are permitted to purchase or otherwise acquire under Federal law and the Kentucky Revised Statutes from properly licensed dealers, manufacturers, importers or collectors, and unlicensed individual persons in Kentucky or in any other state or nation outside of the Commonwealth of Kentucky.
- 2) Residents of States other than the Commonwealth of Kentucky who are citizens of the United States shall have the right to purchase or otherwise acquire rifles, shotguns, handguns, and any other firearms which they are permitted to purchase or otherwise acquire under Federal law and the Kentucky Revised Statutes from properly licensed dealers, manufacturers, importers or collectors and from unlicensed individual persons in the Commonwealth of Kentucky.
- 3) Citizens of countries other than the United States shall have the right to purchase or otherwise acquire rifles, shotguns, handguns, and any other firearms which they are permitted to purchase or otherwise acquire under Federal law and the Kentucky Revised Statutes from properly licensed dealers, manufacturers, importers, or collectors and from unlicensed individual persons.
- 4) All such sales shall conform to the requirements of Federal law, the Kentucky Revised Statutes, applicable local ordinances, and the law of the purchaser's state.

Sale of Handguns: Do not be confused by the new Kentucky law's reference to handguns. Please remember that Federal firearms licensees may not sell or deliver handguns to any person who the licensee knows or has reasonable cause to believe does not reside in the State in which the licensee's place of business is located. Thus, Kentucky licensees may not sell or deliver handguns to persons who do not reside in the Commonwealth of Kentucky. See 18 United States Code (U.S.C.) § 922(b)(3).

Over-the-Counter Sale of Long Guns: As was the case before under Federal law, rifles and shotguns may be sold to a resident from a State other than the licensee's if the transferee meets in person with the licensee to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States. See 18 U.S.C. § 922(b)(3). Thus, Kentucky licensees may sell long guns over the counter to non-residents so long as the sale complies with Kentucky law and the law of the purchaser's State. Kentucky amended K.R.S. § 237.020 primarily because, until the amendment, the State law only allowed purchases by Kentucky residents in contiguous States (Indiana, Ohio, Tennessee, Illinois, Missouri, West Virginia, and Virginia) and purchases in Kentucky by residents of those contiguous States. Thus, the Kentucky law is now similar to the Federal law in that over-the-counter transfers of rifles and shotguns are allowed to purchasers from all States and not just those States contiguous to Kentucky.

Sales to Persons Who Are Not United States Citizens: Concerning K.R.S. § 237.020(3) above, firearms may not be sold to aliens illegally or unlawfully in the United States. See 18 U.S.C. § 922(g)(5)(A). Firearms may not be sold to non-immigrant aliens legally in the United States except as provided for in 18 U.S.C. § 922(y)(2). Before a firearm can be transferred to a non-immigrant alien meeting one of the exceptions outlined in 18 U.S.C. § 922(y)(2), the non-immigrant alien must provide proof they fall within one of the exceptions, provide a valid government-issued photo identification as defined in 27 Code of Federal Regulations (C.F.R.) § 478.11, and provide proof of at least 90 days residency in a State. Ninety days residency may be proven with documents such as a lease or utility bills. The term non-resident alien is defined in 27 C.F.R. § 478.11 and generally refers to persons lawfully but temporarily in the United States for business, school, or pleasure. Permanent resident aliens, or persons who are not United States citizens but reside here legally and permanently, may purchase firearms from licensees provided they give their U.S.-issued alien number or admission number on Item 15 of the ATF Form 4473, a valid government-issued photo identification, and proof of 90 days residency in a State.

Resources: All of the above cited Federal laws and regulations may be found in your Federal Firearms Regulations Reference Guide, ATF Publication 5300.4. Information about State firearms laws may be found in your State Laws and Published Ordinances – Firearms publication, ATF Publication 5300.5. The detailed instructions on ATF Form 4473 (July 2005) are also helpful in answering many questions about requirements for transfers. A great deal of information can also be obtained on the ATF Web site at www.atf.gov.

If you have any questions, you may contact one of the ATF Regulatory Offices in Kentucky.

Louisville:

600 Dr. Martin Luther King Jr. Pl.
Suite 322
Louisville, Kentucky 40202
(502) 753-3500

Bowling Green:

990 Wilkinson Trace
Suite 205
Bowling Green, Kentucky 42103
(270) 393-4755

Lexington:


1040 Monarch Street
Suite 250
Lexington, Kentucky 40513
(859) 219-4508

How this affects FFLs:

To reiterate, the new Kentucky law has no effect on any Federal law or regulation.

As always, we thank you for your cooperation.



 Lewis P. Raden
Assistant Director
(Enforcement Programs and Services)