



# **GUN OWNERS OF AMERICA**

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## **Comments**

**to the Bureau of Alcohol, Tobacco, Firearms and Explosives**

**on the Proposed Rulemaking entitled  
"Application of the Definition of Machinegun to 'Bump Fire'  
Stocks and Other Similar Devices"**

**27 CFR Parts 478 and 479**

**[Docket No. 2017R-22, RIN 1140-AA52, December 26, 2017]**

**filed on January 9, 2018 on behalf of**

**Gun Owners of America**

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Gun Owners of America submits this letter in response to the advanced notice of proposed rulemaking soliciting comments on whether devices commonly known as "bump stocks" fall within the definition of "machine gun" in the National Firearms Act.

In 2010, the [Obama administration determined](#), correctly, that they did not. It concluded, again correctly, that "bump stocks" do not convert semiautomatics into fully automatic weapons.

We believe that conclusion is mandated by the facts and the law. And we think it is absolutely clear, beyond the shadow of a doubt, that any effort to administratively regulate or prohibit "bump stocks" is unlawful -- and would set an incredibly dangerous precedent which could lead to administrative bans on virtually any type of firearm.

### **1. BUMP STOCKS DO NOT FALL WITHIN THE DEFINITION OF "MACHINE GUN" UNDER THE NFA.**

26 U.S.C. 5845(b) defines "machinegun" as "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manually

reloading, by a single function of the trigger..." The definition includes "...any part designed and intended solely and exclusively ... for use in converting a weapon into a machinegun..."

A "bump stock" uses a semiautomatic's recoil to accelerate the rate of fire by bringing the trigger into contact with the shooter's finger. Thus, in a sense, the trigger pulls the finger, rather than vice versa. That said, every round is discharged as the result of a discrete and independent pull of the trigger -- at the expense of any accuracy. Thus, it is simply untrue that the "bump stock" facilitates the discharge of more than one round "by a single function of the trigger" -- no matter how fast the gun discharges rounds. One pull, one discharge. This is the classic textbook definition of a SEMI-automatic.

In sum, to administratively hold that a "bump stock" is a "machinegun" would be fraudulent. Furthermore, it would be a fraud no different in type from administratively holding that an AR-15 is a "machinegun." Or that a [high-capacity magazine](#) is a "machinegun." Or that a polished bolt is a "machinegun." Or that a [belt loop](#) or [stick](#) or [finger](#) is a "machinegun."

## **2. ATF HAS NO GENERALIZED AUTHORITY TO REGULATE FIREARMS OR ACCESSORIES, OUTSIDE THE SPECIFIC LANGUAGE OF THE STATUTE.**

Federal law is intentionally structured so that it does NOT give generalized authority to the ATF or to anyone else to regulate firearms and accessories. Rather, it prohibits certain acts and gives ATF (and, on occasion, other agencies) the jurisdiction to enforce those prohibitions.

6 U.S.C. 531 gives ATF the power to (1) investigate "criminal and regulatory violations of the federal firearms ... laws", (2) investigate "violent crime or domestic terrorism," as defined in 18 U.S.C., (3) carry out some of the discrete functions it exercised in the Department of the Treasury, and (4) carry out those functions vested in the Attorney General by statute and delegated to ATF. Thus, ATF's jurisdiction is defined by federal statutory provisions.

Similarly, with few exceptions, each of the subsections in the

core of federal firearms law (18 U.S.C. 922) begins with the words "It shall be unlawful" and then proceeds to proscribe a specific discrete act.

Thus, unlike other agencies, ATF does not have open-ended regulatory authority.

This is intentional. By way of contrast, the Consumer Product Safety Commission (CPSC) has authority to ban certain unsafe products, or require they be modified to make them safer. If ATF had similar authority to ban or regulate firearms, parts and accessories, it could use that authority to ban any or all firearms. Clearly, this would not be an acceptable outcome under the Second Amendment.

Therefore, since ATF does not have the authority to classify a "bump stock" as a machinegun, it does not have the authority to regulate "bump stocks" at all.

Any other result would be a concession that ATF has the inherent authority to regulate or ban large categories of firearms -- or all firearms.

Respectfully submitted,

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Gun Owners of America

*Gun Owners of America is a grassroots lobby representing more than 1.5 million gun owners.*