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THREAT TO AMERICAN FREEDOM: HOW THE NATIONAL FIREARMS ACT TAXED AND TRACKED EVERYDAY AMERICANS

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TOPLINE POINTS

- ★ In 1934, Congress and the Roosevelt Administration worked together to enact the National Firearms Act (NFA), creating the first federal gun registry in United States history.
- ★ Proponents of the NFA were careful to frame the tax and registration regime as a revenue measure under Congress's taxing power because they knew Congress lacked the Constitutional authority to accomplish their true goal of banning entire categories of firearms.
- ★ The National Firearms Act was intended to serve as a stepping stone toward the registration and taxation of all firearms in America, but Second Amendment advocates have successfully contained NFA regulations to machine guns, short-barreled rifles, short-barreled shotguns, suppressors, "destructive devices," and "any other weapons."
- ★ To restore the Second Amendment rights of all law-abiding Americans, Congress, the executive branch, and the judiciary must take steps to systematically dismantle as much of the NFA and its ancillary regulations as possible.

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.



Introduction

The National Firearms Act of 1934 (NFA) was one of the first federal gun control laws enacted in the United States. Knowing that Congress lacked the constitutional authority to categorically ban firearms, proponents of the NFA looked to the Harrison Narcotics Tax Act of 1914, which established a novel taxation and registration regime to effectively ban opiates, as a roadmap for “regulation through taxation.” While not an outright prohibition, the NFA achieved substantially similar results for the items it regulated through draconian taxes, burdensome registration requirements, and the establishment of a federal registry to track the movement of every firearm within its purview.

This research report provides an in-depth exploration of the historical context and the debate that led to the enactment of one of the most restrictive gun control measures in United States history. It explains the way the government stretched the limits of Congress’s taxing power by using punitive taxes and mandatory registration to effectively ban entire classes of firearms. The report then explores the arbitrary nature of the items included in the NFA, detailing the National Rifle Association’s (NRA) successful efforts to limit the law’s scope and the government’s unyielding efforts to expand it over time. The report traces the trajectory of the NFA and its subsequent amendments over 92 years, highlighting the predominantly one-way ratchet of federal gun control legislation and regulations, which was partially relieved by the elimination of the transfer tax on most NFA items in the One Big Beautiful Bill Act (2025). In conclusion, this report provides recommendations on how to restore the America First vision of the Second Amendment by dismantling the NFA and providing safeguards against government intrusion for every American who chooses to exercise their God-given right to keep and bear arms.

The Historical Context of the NFA

For the past century, the erosion of Second Amendment rights in America has maintained a predictable path: a high-profile criminal misuse of a firearm is followed by vociferous calls to categorically ban, regulate, or otherwise restrict access to firearms. It is the legislative equivalent of attempting to treat the symptom, generally framed as criminal access to firearms, while ignoring the underlying issue of the crime itself. Like the overwhelming majority of federal gun control measures that followed it, the NFA helped establish this trend ([Bureau of Alcohol, Tobacco, Firearms and Explosives, n.d.-d](#)).

In America, the 1930s are often remembered for the Great Depression, the Dust Bowl, the New Deal, and the end of Prohibition. Although the ratification of the 21st Amendment ended Prohibition in 1933, the damage done to the American psyche by the proliferation of organized crime throughout the country had already been done ([NPR Staff, 2016](#)). That same year, unemployment rates, which had risen precipitously since the stock market crash of 1929, peaked at nearly 25% ([The Editors of Encyclopaedia Britannica, n.d.](#); [U.S. Bureau of Labor Statistics, n.d.](#)). When combined, high unemployment and a massive market for illegal liquor helped set the stage for the rise of notorious prohibition-era gangsters and bank robbers such as Al Capone, John Dillinger, “Pretty Boy” Floyd, “Machine Gun” Kelly, and Bonnie and Clyde ([Shafer, 2022](#)).

The National Firearms Act was born out of a collective desire by the Democrat-led Congress and President Franklin D. Roosevelt’s administration to restrict civilian access to firearms under the guise of preventing criminal access to items such as “sawed-off shotguns” and “machine guns” ([NPR Staff, 2016](#); [U.S. House Committee on Ways and Means, 1934](#)). These firearms, which were



highly sensationalized through media coverage surrounding events like the St. Valentine's Day Massacre, became the focal point around which the public debate for the NFA was set ([Bureau of Alcohol, Tobacco, Firearms and Explosives, n.d.-d](#)). By framing the bill as an attempt to deal with “the armed underworld,” Attorney General Homer Cummings was quick to obfuscate the lines between the lawful possession of firearms by everyday Americans and their misuse by criminals ([U.S. House Committee on Ways and Means, 1934, pp. 5–6](#)). He went so far as to state, during his testimony at the NFA's initial congressional hearing, “I think the sooner we get to the point where we are prepared to recognize the fact that the possession of deadly weapons must be regulated and checked, the better off we are going to be as a people” ([U.S. House Committee on Ways and Means, 1934, p. 22](#)). More than nine decades later, anti-gun officials routinely echo this encroachment as a cornerstone of their activism.

This flagrant disregard for the Second Amendment and the constitutional protections it affords American citizens perfectly summarizes the Roosevelt Administration's position on firearms. It is important to note, however, that Second Amendment jurisprudence was virtually nonexistent in 1934 ([White, 2022](#)). In fact, the first major Second Amendment case to reach the Supreme Court did so in 1939, when *United States v. Miller* upheld the constitutionality of the inclusion of short-barreled shotguns in the NFA based on the now antiquated collective rights theory of the Second Amendment ([United States v. Miller, 1939](#)).¹ Even today, despite major Supreme Court rulings asserting the right of the individual to keep and bear arms, jurisprudence on the Second Amendment is dramatically underdeveloped, especially when compared to most other constitutional protections enumerated in the Bill of Rights ([District of Columbia v. Heller, 2008](#); [McDonald v. City of Chicago, 2010](#); [N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen, 2022](#); [White, 2022](#)). The post-*Bruen* environment offers ample opportunities for the Supreme Court to answer many fundamental questions related to the Second Amendment, including the constitutionality of hardware bans, magazine capacity limits, and the NFA itself.

Despite the lack of deep Second Amendment jurisprudence in that era, Attorney General Cummings and his allies understood that any attempt to restrict access to firearms would be subject to judicial review ([U.S. House Committee on Ways and Means, 1934, p. 133](#)). When debate on the NFA began in the House Ways and Means Committee on April 16, 1934, the Attorney General quickly assured committee members that the legislation had “been drafted with an eye to constitutional limitations” ([U.S. House Committee on Ways and Means, 1934, p. 4](#)). When asked about those limitations, he cunningly framed the regulations as a mere byproduct of the taxation.

We are dealing with another power, namely, the power of taxation, and of regulation under the interstate commerce clause. If we made a statute absolutely forbidding any human being to have a machine gun, you might say there is some constitutional question involved. But when you say ‘We will tax the machine gun’ and when you say that ‘the absence of a license showing payment

¹ The collective rights theory held that the Second Amendment guarantees the right of states to maintain armed organized militias to prevent Congress from usurping states' ability to defend their interests. The Supreme Court adopted the collective rights theory in *United States v. Miller*, asserting that the prefatory clause of the Second Amendment meant that only arms with “some reasonable relationship to the preservation or efficiency of a well regulated militia” are protected (Miller, 1939, p. 178). In the 2008 *District of Columbia v. Heller* decision, the Court abandoned the nearly 70-year-old precedent in favor of the individual rights theory, which asserts that Second Amendment protections are guaranteed to individuals ([District of Columbia v. Heller, 2008](#)).

of the tax has been made indicates that a crime has been perpetrated,’ you are easily within the law ([U.S. House Committee on Ways and Means, 1934, p. 19](#)).

Although Cummings made his desire to ban sawed-off shotguns and machine guns clear, the NFA, by design, was not an outright prohibition on the categories of firearms it regulated ([U.S. House Committee on Ways and Means, 1934, p. 6](#)). Instead, it was essentially a carbon copy of the Harrison Narcotics Tax Act, which provided a Supreme Court-tested blueprint on the efficacy of utilizing tax and registration requirements to effectively ban items Congress sought to control. The Attorney General knew that lawmakers could repurpose the structure of the anti-drug law to achieve a functionally identical result for firearms, telling the committee that “we have followed the Harrison Anti-Narcotic-Act [sic] in language so as to get the benefit of any possible interpretation that the courts may have made of that act” ([U.S. House Committee on Ways and Means, 1934, p. 6](#)).

The Harrison Narcotics Tax Act: Creating the Model of Government Control Through Taxation and Registration

The Harrison Narcotics Tax Act ([H.R. 6282, 1914](#)) was signed into law by President Woodrow Wilson in 1914 to enable the federal government to track the production and sale of certain drugs. Ostensibly justified as a revenue-generating measure ([Courtwright, 1992](#)), the law required anyone who wished to “import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves” to first register with the Bureau of Internal Revenue (the precursor to the Internal Revenue Service) and pay a “special tax” of \$1. Any transfer of the aforementioned drugs required meticulous recordkeeping and was subject to government inspection. Furthermore, anyone found in possession of unregistered drugs without a prescription was presumed guilty of violating the law. Failure to register or pay the mandatory taxes resulted in imprisonment for up to five years and a fine of up to \$2,000 ([Harrison Narcotics Tax Act, 1914](#)).

Thus, the Harrison Narcotics Tax Act, which effectively banned opiates and cocaine outside of clinical settings, was the opening salvo in the modern war on drugs ([Coleman, 2023](#)). Twenty years later, its taxation and registration regime, which served as a backdoor “regulation through taxation” prohibition, became the foundation upon which the NFA, America’s first federal gun registry, was built ([U.S. House Committee on Ways and Means, 1934, p. 6](#)).

It was a solid foundation. By 1934, the Supreme Court had ruled on the Harrison Narcotics Tax Act multiple times. In *United States v. Doremus* ([1919](#)), the Court held, despite Chief Justice Edward Douglass White’s dissent, that “if the legislation enacted has some reasonable relation to the exercise of the taxing authority conferred by the Constitution, it cannot be invalidated because of the supposed motives which induced it.” In other words, Congress can launder regulations that may otherwise fall outside the purview of its constitutional authority through the congressional taxing power.



The Supreme Court reiterated this idea in *Nigro v. United States* ([1928](#)).

In interpreting the Act, we must assume that it is a taxing measure, for otherwise it would be no law at all. If it is a mere act for the purpose of regulating and restraining the purchase of the opiate and other drugs, it is beyond the power of Congress and must be regarded as invalid.

Even though the possession and use of opiates and narcotics is not an unalienable right enumerated in the Constitution, jurisprudence in the early 20th century, prior to *Wickard v. Filburn* ([1942](#)), held a far narrower interpretation of congressional power related to the interstate commerce clause. At the time, Congress was limited in its ability to regulate the manufacture, sale, and distribution of commodities without a constitutional amendment. That is why, in 1919, the ratification of the 18th Amendment was required to prohibit alcohol (U.S. Const. amend. XVIII). Proponents of the NFA surmised that if the government could regulate access to drugs through mandatory taxation and registration regimes, Congress could do the same with firearms. Citing the *Nigro* decision in his testimony, Assistant Attorney General Joseph B. Keenan made this sentiment clear, emphasizing that “without registration, there is no way to get at the control of firearms now possessed” ([U.S. House Committee on Ways and Means, 1934, p. 162](#)). These types of backdoor regulations, coupled with *Wickard*’s dramatic expansion of Congress’s authority under the Commerce Clause in 1942, ultimately eroded Congress’s aversion to categorical bans of both drugs and firearms through legislation ([Controlled Substances Act, 1970; H.R. 3355, 1994](#)).

The Evolution of the NFA Through the Legislative Process

The first draft of the National Firearms Act was a grab-bag of arbitrary taxes and restrictions. It covered far more than just short-barreled shotguns and machine guns. When introduced, H.R. 9066 defined a “firearm” as “a pistol, revolver, shotgun having a barrel less than sixteen inches in length, or any other firearm capable of being concealed on the person, a muffler or silencer therefor, or a machine gun.” The legislation went on to define a “machine gun” as “any weapon designed to shoot automatically or semiautomatically twelve or more shots without reloading” ([U.S. House Committee on Ways and Means, 1934, p. 4](#)).

Much like the Harrison Narcotics Tax Act, the original bill required importers, manufacturers, and dealers to register with the Collector of Internal Revenue and pay a yet-to-be-determined special tax. Every “firearm” that fell under the purview of the NFA required serialization, and anyone engaged in the business of importing, making, or selling these items was required to maintain meticulous records. In order to “sell, assign, transfer, give away, or otherwise dispose of” items regulated by the NFA, the seller would be required to pay another yet-to-be-determined transfer tax. In addition, the purchaser would have to fill out a government application, which included “his name, address, fingerprints, photograph,” and other personal information. The sale could not proceed legally until the applicant received approval from the Secretary of the Treasury in the form of a tax stamp ([U.S. House Committee on Ways and Means, 1934, pp. 1–3](#)).

When asked for his recommendation on a proposed fee structure, Attorney General Cummings suggested “a tax on importers or manufacturers of \$5,000 a year” and a tax of \$200 a year for dealers. He then went on to propose a \$200 transfer tax for machine guns, because the average cost of a Thompson submachine gun in 1934 was \$200, noting that it “would be about a 100-percent tax” ([U.S.](#)



[House Committee on Ways and Means, 1934, pp. 11–12](#)). Cummings’ proposal was both arbitrary and intentionally punitive.

Today, \$200 is not nearly the exorbitant financial burden that it was in 1934, but at the time, \$200 priced nearly all Americans out of the market for any item covered by the mandatory tax. According to the U.S. Bureau of Labor Statistics CPI Calculator, \$200 in June of 1934 is equal to roughly \$4,984 in June of 2026. The proposed \$5,000 tax on importers or manufacturers amounts to a staggering \$124,609 in today’s dollars ([U.S. Bureau of Labor Statistics, 2026](#)). Considering that per capita income in the United States in 1934 was somewhere between \$377 and \$428, it is hard to reconcile the proposed amounts as anything other than deliberately cost-prohibitive for the average law-abiding American ([The New York Times, 1935](#); [U.S. Bureau of Economic Analysis, 2026](#)). If a tax equivalent to roughly 50% of the average income was not enough to deter would-be purchasers, the byzantine federal licensing scheme provided an effective additional layer of dissuasion.

As debate on H.R. 9066 unfolded, many of the provisions came under intense scrutiny. Among those provisions was the “prohibitive nature of the tax,” as described by Karl T. Frederick, President of the NRA ([U.S. House Committee on Ways and Means, 1934, p. 50](#)). In his estimation, the NFA, which was “proposed under the guise of a revenue raising bill,” “practically speaking, destroys the business in firearms of 95 percent of the dealers” ([U.S. House Committee on Ways and Means, 1934, p. 43](#)). In so doing, Frederick surmised that if dealers in metropolitan areas “are the only dealers to exist,” then anyone living outside of a city “will be unable, in a practical sense, to obtain any firearm ... for his own defense and the defense of his home and family” ([U.S. House Committee on Ways and Means, 1934, p. 44](#)).

Frederick also criticized the inclusion of semi-automatic firearms and the arbitrary nature of a 12-round magazine capacity limit in the draft’s definition of machine guns. He explained that “the distinguishing feature of a machine gun is that by a single pull of the trigger the gun continues to fire as long as there is any ammunition in the belt or in the magazine” ([U.S. House Committee on Ways and Means, 1934, p. 40](#)). If the definition of a machine gun included semi-automatic firearms, he asserted, the National Firearms Act would encompass both “the ordinary repeating rifle” and “the ordinary shotgun” ([U.S. House Committee on Ways and Means, 1934, p. 41](#)), the very items that Attorney General Cummings assured would not be impacted “in any way” ([U.S. House Committee on Ways and Means, 1934, p. 5](#)).

Perhaps the most controversial provision that met resistance during the hearings was the inclusion of handguns. The NRA, along with the American Legion and the American Game Association, all voiced their vehement opposition to the inclusion of pistols or revolvers in the bill ([U.S. House Committee on Ways and Means, 1934, pp. 65, 80–81](#)). Even after the Committee attempted to placate the sportsmen’s groups through substitute language that excluded “.22 caliber rim fire” handguns from the definition of “firearm,” NRA’s Executive Vice President General Milton A. Reckord remained steadfast in his objections ([U.S. House Committee on Ways and Means, 1934, pp. 83, 110](#)). He explained “that a pistol or revolver in the hands of a man or woman who knows how to use it is one thing which makes the smallest man or the weakest woman the equal of the burliest thug” ([U.S. House Committee on Ways and Means, 1934, pp. 113–114](#)). Reckord then remarked,



If you pass this legislation, I will come back in 5 years and I know you will agree with me that it is going to be another Volstead Act. The honest citizens are not going to be bothered with such restrictions. They won't obey the law and you are going to legislate 15 million sportsmen into criminals; you are going to make criminals of them with the stroke of the President's pen ([U.S. House Committee on Ways and Means, 1934, p. 123](#)).

The congressional record on H.R. 9066 concludes with a written statement of opposition submitted by General Reckord on behalf of the NRA. With seemingly well-informed clairvoyance, he prophetically warns as follows:

There is no reason to believe, on the face of the evidence supplied from all parts of the country over a long period of time, that Federal firearms legislation would not follow the usual trend: First, the adoption of some kind of a Federal firearms bill; second, the effort to strengthen its provisions and to put more teeth into it; and finally, the effort to completely disarm the average citizen on the theory that by so doing we would be able to better arrest the armed criminal and save many people from suicide ([U.S. House Committee on Ways and Means, 1934, p. 165](#)).

He then goes on to call out the de facto Second Amendment veto power created by the legislation, the parallels between the NFA and the Harrison Narcotics Tax Act, and the potential for runaway regulatory abuse:

The reference to possible dictatorial control by one or two men under the provisions of this bill which make it possible for the Secretary of the Treasury or the Commissioner of Internal Revenue to do many things by regulation which are not specifically mentioned in the bill was also based on numerous conversations with Mr. Keenan and Mr. Smith of the Department of Justice. They made it evident that many of the effective provisions under which the Narcotics Act is being administered were not included in the original law at all but had merely been added on as regulations ([U.S. House Committee on Ways and Means, 1934, p. 165](#)).

Twelve days after the debate on H.R. 9066 concluded, House Ways and Means Committee Chairman Robert Doughton introduced H.R. 9741 as a revised substitute for the National Firearms Act. On June 13, 1934, the House of Representatives passed the new bill ([Congressional Record—House, 1934, pp. 11399–11401](#)). Five days later, on the final legislative day of the year, it passed the Senate with two amendments: one to lower the tax on importers and manufacturers from \$1,000 to \$500, and a second, unrelated provision to increase the tariff on spirits and wines by 25% ([Congressional Record—Senate, 1934, pp. 12398–12400](#)). The House agreed to lower the tax on importers and manufacturers, but rejected amendment number two, thus sending the bill back to the Senate ([Congressional Record—House, 1934, p. 12548](#)). In its final act before sine die, the Senate accepted the House changes, passing a concurrent resolution without objection ([Congressional Record—Senate, 1934, pp. 12448–12449](#)). On June 26, 1934, President Roosevelt signed the National Firearms Act of 1934 into law, thus creating the first federal gun registry.

Widespread opposition from the NRA, the Izaak Walton League of America, the American Legion, and the American Game Association had not been entirely in vain. In three key



departures from earlier drafts, the final version of the National Firearms Act removed handguns from the definition of a “firearm” and altered the definition of a “machine gun” in two distinct ways. The new law defined firearms as follows:

A shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition ([National Firearms Act, 1934, p. 1236](#)).

The new law then defined a “machine gun” as “any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger” ([National Firearms Act, 1934, p. 1236](#)). Despite its confusing wording, the final language did remove semi-automatic firearms from the definition of machine guns. In keeping with the second draft of H.R. 9066, it also eliminated the 12-round magazine capacity limit as proposed in the initial draft. Had handguns, semi-automatic firearms, and magazine-fed guns capable of shooting “twelve or more shots without reloading” been included in the National Firearms Act as enacted, the Second Amendment as we know it today would not exist. Instead, civilian access to firearms would have been relegated to 19th-century technology.

When viewed through the lens of concessions, suppressors and short-barreled rifles did not fare so well. As the least discussed provisions, their inclusion in the bill seems more like an afterthought than a primary concern. The initial draft of the legislation only applied to suppressors for “a pistol, revolver, shotgun having a barrel less than sixteen inches in length, or any other firearm capable of being concealed on the person” ([U.S. House Committee on Ways and Means, 1934](#)). With virtually no discussion of suppressors in the congressional record, we are left to speculate on the intent behind their incorporation, as well as the expansion to suppressors for any firearm in subsequent drafts ([U.S. House Committee on Ways and Means, 1934, p. 83](#)).

Notably, the preliminary language did not mention short-barreled rifles at all. During the first hearing on H.R. 9066, Attorney General Cummings’ seeming surprise at Rep. Harold Knutson’s recommendation to add rifles to the NFA is readily apparent. When asked if he was amenable to adding “the words ‘or rifle’ having a barrel less than 18 inches” to the definition of “firearm,” Cummings told the legislator from Minnesota, “well, there is no objection as far as we are concerned to including rifles after the word ‘shotguns’ if you desire” ([U.S. House Committee on Ways and Means, 1934, p. 13](#)). Those desires were clearly met, as the subsequent and final drafts of the NFA included short-barreled rifles and the arbitrary shift in barrel length for all short-barreled firearms from 16 to 18 inches ([U.S. House Committee on Ways and Means, 1934, p. 83](#)).

Following the back-and-forth amendments between the congressional chambers, the lawmakers set the tax at \$500 for importers and manufacturers, a far cry from the \$5,000 tax proposed by Attorney General Cummings. The tax for dealers was set at \$200 per year, \$300 for pawnbrokers, and \$200 “to be paid by the transferor” for each NFA item when delivered to the final consumer. In line with the Harrison Narcotics Tax Act, failure to register or pay the mandatory taxes resulted in identical



punishments of imprisonment for up to five years and a fine of up to \$2,000 ([National Firearms Act, 1934, pp. 1237–1240](#)).

The Unyielding Crusade to Expand the NFA

It did not take long for General Reckord’s prophetic prediction that the government would seek to expand the purview of the National Firearms Act to be realized. By January 1936, Attorney General Cummings was already advocating for the addition of pistols to the tax and registration regime. As reported in the *New York Times*, “a bill drafted by the Department of Justice carrying out the recommendations is already on the desk of Chairman Doughton of the House Ways and Means Committee for action during this session of Congress, and it will do in the field of small firearms what has been done for such weapons as machine guns and sub-machine guns” ([The New York Times, 1936a](#)).

A year later, the *New York Times* once again covered his crusade to expand the National Firearms Act, this time “to include all types of firearms.” According to the Attorney General, the NFA was “far too limited in scope.” In his own words, “small weapons are even a greater menace than machine guns, since they can be concealed with greater facility. No serious financial burden would be imposed on any one by a \$1 tax on the transfer of a revolver, pistol, rifle or shotgun.” His statement on the affordability of the \$1 tax implies an inherent understanding that “the transfer charge of \$200 ... for machine guns, sawed-off shotguns and rifles and the silencers” constitutes a serious financial burden ([The New York Times, 1937](#)).

In a 1938 interview with J. Edgar Hoover’s close ally Rex Collier of the *Washington Evening Star*, Attorney General Cummings elaborated on the intent behind his insatiable desire to expand the NFA ([The Evening Star, 1970, p. 5](#)). He asserted that “nation-wide uniform registration of firearms must be had in order to cope with” criminal access to firearms. “Registration is not the complete answer,” he said, “but it is a necessary first step” ([Collier, 1938, p. 3](#)). His assertion leads to two obvious questions: if universal registration of firearms is the first step, what was the National Firearms Act? And what comes next? It did not take long to answer the latter.

Two months after his interview, the Federal Firearms Act ([1938](#)) expanded upon the NFA, formally establishing licensing requirements for manufacturers and dealers, requiring dealers to maintain permanent records of their NFA transactions, clarifying that identifying marks must include a serial number, and defining the first category of prohibited persons. While not the universal registry of all firearms that Cummings sought as the first step to give the government the tools it would need to identify and more easily confiscate civilian firearms, the Federal Firearms Act nonetheless built upon the NFA significantly. Although Cummings retired in January 1939, his vociferous anti-gun zeal endured through his successor.

Picking up where Cummings left off, Attorney General Robert H. Jackson issued a letter to the Speaker of the House on May 29, 1940, urging Congress to enact “a law which will require the registration of all firearms” under the guise of protecting the country from criminals. He assured the Speaker that it “would in no wise improperly limit the freedom of action of peaceful, law-abiding persons. The contemplated legislation would not hamper or hinder any person from purchasing or possessing a firearm. It would merely require him to register the firearm and to record any transfer of the weapon” ([The New York Times, 1989](#)). As if his intent was not explicit enough, he closed the letter by clarifying



that his “recommendation would extend the registration and nominal tax provisions of the 1934 statute to all types of firearms” ([The New York Times, 1989](#)). What is unclear in his letter is whether the “nominal tax provisions” would be assessed at \$200 or at the \$1 rate proposed by his predecessor.

During the Roosevelt Administration’s unrelenting quest to expand the NFA, the President set his sights on a new target: the Supreme Court. On February 5, 1937, President Roosevelt and Attorney General Cummings announced the Judicial Procedures Reform Bill, urging Congress to pack the court with up to six additional justices ([Roosevelt, 1937a](#)). Frustrated by the Court’s invalidation of several of its progressive New Deal legislative priorities, the Roosevelt Administration wanted to infuse the Court with “new blood” in order to avoid additional political setbacks ([Federal Judicial Center, n.d.](#); [U.S. Congress, Senate, Committee on the Judiciary, 1937](#)). The President’s attempt to convince Congress and the American public into believing that his plan was “no attack on the Court” ultimately fell short; however, Roosevelt’s attempt to pack the court immediately preceded a seismic shift in the Court’s interpretation of the scope of Congress’s authority ([Roosevelt, 1937b](#)).

As Congress debated the President’s proposal to pack the court, the Supreme Court ruled on two cases that directly impacted the trajectory of the NFA: *Sonzinsky v. United States* on March 29, 1937, and *National Labor Relations Board (NLRB) v. Jones & Laughlin Steel Corp.* on April 12, 1937. Citing *Nigro* and *Doremus*, the Supreme Court’s decision in *Sonzinsky* affirmed the government’s right to tax NFA dealers. Despite the arbitrary and intentionally restrictive nature of the taxes, the Court asserted that “Every tax is in some measure regulatory. To some extent, it interposes an economic impediment to the activity taxed, as compared with others not taxed” ([Sonzinsky v. United States, 1937](#), p. 513). Seventy-five years later, Chief Justice John Roberts quoted this exact passage as justification for the individual mandate of the Affordable Care Act in *National Federation of Independent Business v. Sebelius* ([2012](#)), highlighting the extreme latitude the Supreme Court still gives to Congress’s taxing power.

While the *Sonzinsky* ruling was not a major departure from established precedent, the *NLRB* decision two weeks later initiated the dramatic reversal of the Supreme Court’s longstanding narrow interpretation of the Commerce Clause ([NLRB v. Jones & Laughlin Steel Corp., 1937](#)). Through the rulings in *NLRB*, *United States v. Darby* ([1941](#)), and *Wickard v. Filburn* ([1942](#)), the Supreme Court expanded the scope of the Commerce Clause to the point that it essentially gave Congress unfettered power to regulate anything that could “substantially affect” interstate commerce, even in aggregate ([Chemmerinsky, 2015](#)). This expansion meant that lawmakers no longer had to rely solely on the taxing power to justify regulations or prohibitions on items or activities, including firearms.

Two days after the *NLRB* decision was published, the Roosevelt Administration launched its parallel effort to dramatically extend the scope of federal drug laws. On April 14, 1937, “at the request of the Secretary of the Treasury,” Chairman Doughton, the primary sponsor of the NFA, introduced the Marihuana Tax Act of 1937 “to impose an occupational excise tax upon certain dealers in marihuana, ... upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording” ([U.S. Congress, House Committee on Ways and Means, 1937, p. 1](#)). Once again, the government explicitly understood that it could use taxation to achieve policy goals outside of the traditional confines of congressional authority. Having encountered no setbacks in its strategy, the administration found it unnecessary to reference the newly expanded Commerce Clause in its pursuit of cannabis regulations. Clinton M. Hester, Assistant General Counsel of the Treasury



Department, summarized the administration's position by stating that the purpose of the Marihuana Tax Act (which was "modeled on the Harrison Narcotics Act and the National Firearms Act") "must be to raise revenue, because we are resorting to the taxing clause of the Constitution and the rule is that if on the face of the bill it appears to be a revenue bill, the courts will not inquire into any other motives that the Congress may have had in enacting this legislation" ([U.S. Congress, House Committee on Ways and Means, 1937, p. 10](#)).

Among the bill's more punitive provisions was a \$100 per ounce tax on the transfer of marijuana to unlicensed individuals. When asked to estimate the going rate of marijuana, Hester testified to the House Ways and Means Committee that the fair market value was "about a dollar per ounce" ([U.S. Congress, House Committee on Ways and Means, 1937, p. 14](#)). He made no attempt to conceal the deliberately draconian nature of either the proposed 10,000% imposition on marijuana or the costs associated with the NFA. Instead, he acknowledged that "although the \$100 transfer tax in this bill is intended to be prohibitive, as is the \$200 transfer tax in the National Firearms Act, it is submitted that it is constitutional as a revenue measure" ([U.S. Congress, House Committee on Ways and Means, 1937, p. 9](#)). On August 2, 1937, President Roosevelt signed H.R. 6906 into law, setting the stage for the complete federal prohibition on marijuana ([Marihuana Tax Act of 1937, 1937](#)).

Major Amendments to the NFA: An Arbitrary Reduction in Barrel Length

In 1960, Congress jumped back into the NFA to fix a specific problem related to barrel length. On May 2, 1960, Sen. Harry F. Byrd, Sr., submitted the Senate Finance Committee's report on H.R. 4029, in which he stated,

It has been called to the attention of your committee that a number of popular sporting rifles have a barrel length just slightly under 18 inches with the result that they are classified as a 'firearm' subject to these special taxes and control provisions. ([U.S. Senate Committee on Finance, 1960, p. 3](#)).

The rifles in question were likely M1 Carbines, the most widely produced service rifle from World War II and the Korean War. Although not officially authorized by the military, quite a few carbines returned home with the servicemen who carried them throughout the two conflicts ([NRA Museums, 2016](#)). By the late 1950s, several commercial manufacturers even began selling copies of the rifle to civilian customers ([Canfield, 1987](#)). The main problem, as Sen. Byrd acknowledged, was that they were equipped with 17.75-inch barrels. Rather than prosecute the unwitting offenders, Congress instead chose to pass H.R. 4029 to reduce the barrel length for short-barreled rifles from 18 inches to 16 inches. As a trade-off, the law established minimum overall length requirements for rifles and shotguns and lowered the tax for the category known as "any other weapons" (AOWs) to \$5 ([H.R. 4029, 1960](#)).

Congress's decision to reduce the barrel length for rifles, but not for shotguns, is a prime example of the arbitrary nature of the NFA's definitions. After all, in a statutory framework where both concealable handguns and long guns are unencumbered by the NFA, how can an impartial legislator rationalize taxation and registration requirements for firearms that fit neatly in the middle? There is no functional difference between a shotgun with a 16-inch barrel and one with an 18-inch barrel, just as there is no functional difference between a rifle with a 16-inch barrel and one with an 18-inch barrel. Neither is functionally concealable, and yet Congress decided that a shotgun with a barrel



between 16 and 18 inches in some way poses a greater threat to public safety than a rifle with similar dimensions.

Major Amendments to the NFA: The Gun Control Act

One of the most substantial amendments to the NFA came in 1968 with the passage and enactment of the Gun Control Act (GCA). Like the NFA, the catalyst for the GCA was a series of high-profile shootings. In this instance, it included the assassinations of President John F. Kennedy, Sen. Robert F. Kennedy, and Dr. Martin Luther King, Jr. ([Bureau of Alcohol, Tobacco, Firearms and Explosives, n.d.-c](#)).

The GCA built upon the Federal Firearms Act's recordkeeping requirements by establishing the National Firearms Registration and Transfer Record (NFRTR) to track the status of all taxable items that the NFA regulated. The new law specified that the registry would include "identification of the firearm," "date of registration," and the "identification and address of person entitled to possession of the firearm" ([Gun Control Act of 1968, 1968](#)). It also created a new category of NFA items known as "destructive devices" and expanded licensing requirements to anyone "engaged in the business" of making or selling firearms or ammunition ([Gun Control Act of 1968, 1968, pp. 1215–1216](#)).

The GCA also established minimum age requirements for purchasing ammunition, prohibiting the sale of long-gun ammunition to anyone under 18 and handgun ammunition to anyone under 21 ([Gun Control Act of 1968, 1968, p. 1218](#)). One glaring issue with this particular provision is the fact that ammunition for handguns and long guns is often indistinguishable because there are many common pistol caliber carbines and other long guns in circulation that shoot ammunition that is traditionally regarded as handgun ammunition. The same is true in reverse.

Despite everything the GCA regulated, anti-gun politicians still wanted more. In a statement following the GCA's passage, some 34 years after the enactment of the NFA, President Lyndon B. Johnson picked up the torch in the quest for a universal gun registry:

YESTERDAY the Congress adopted most of my recommendations for a comprehensive gun control law. I am glad that the public will now be protected against the indiscriminate mail-order sales of rifles, shotguns, pistols, and ammunition.

I am sorry, however, that Congress did not adopt two important recommendations—to require the registration of guns and the licensing of gunowners. In a nation with over 160 million guns—almost four times as many firearms as families—registration and licensing would have brought far greater protection to the people. But the voices of the gun lobby prevailed for the moment and these safeguards were defeated ([Johnson, 1968](#)).

Had President Johnson succeeded in his attempt to expand the NFA into a universal gun registry, the Second Amendment freedoms we know today would look very different. Requiring law-abiding citizens to register their firearms would enable the government to identify and disarm law-abiding citizens at its leisure. Historically, criminals have not complied with registration or licensing requirements, undercutting the public safety argument invoked by President Johnson and many other proponents of gun registries. In the extreme, registries can be used to disarm and systematically murder entire races, ethnicities, and classes of people ([Halbrook, 2019](#)). At best, law-abiding gun owners who are forced into



registries are never more than one step away from mandatory confiscations, often misleadingly labeled as “buybacks.”

Further legislative amendments and regulatory reforms to the National Firearms Act did not stop there. On July 1, 1972, the Treasury Department gave the nascent Bureau of Alcohol, Tobacco and Firearms (ATF) jurisdiction over the NFA and other firearms laws from the Alcohol and Tobacco Tax Division (ATTD) ([Bureau of Alcohol, Tobacco, Firearms and Explosives, n.d.-a](#)). In 1983, ATF began digitizing the NFRTR with records that include the item’s transaction history, as well as “the make, model, and serial number of the weapon, the date of its registration, and the name and address of the person entitled to possess the weapon” ([U.S. Department of Justice, Office of the Inspector General, 2007a, pp. viii, 3](#)).

Major Amendments to the NFA: The Firearms Owners’ Protection Act, the ‘86 Ban on Machine Guns, and a Change in the Definition of Suppressors

The next major reform to the National Firearms Act came in 1986 with the Firearms Owners’ Protection Act (FOPA). The final bill, which purported to serve as a compromise to address issues in the NFA, the GCA, and the interstate transport of firearms, was the product of years of debate, multiple pieces of legislation, and a patchwork of policy initiatives ([S. 49, 1985](#)). Among the bills consolidated into FOPA was the Federal Firearms Law Reform Act of 1986 ([H.R. 4332, 1986](#)). Sponsored by Rep. William Hughes, H.R. 4332 was itself modeled in large part on Judiciary Chairman Peter W. Rodino’s Racketeer Weapons and Violent Crime Control Act of 1985, which sought to completely ban the future sale and possession of suppressors and machine guns to civilians and establish a government buyback program for those already lawfully possessed ([Congressional Record, 1985, p. 22806](#)). It is worth noting that the government cannot “buy back” something it never owned. It can, however, use taxpayer dollars to purchase items that are voluntarily surrendered or impose mandatory confiscations.

As congressional negotiations on the package ensued, Hughes’ and Rodino’s blatantly biased mischaracterizations made it impossible to conceal their vitriolic disdain for suppressors and machine guns. Both representatives from New Jersey were effusive in their attempts to frame their proposals as moderate. Chairman Rodino characterized H.R. 3155 as a “balanced measure,” despite describing machine guns and suppressors as “weapons of assassins and terrorists” with “no sporting use at all” ([Congressional Record, 1985, p. 22662](#)). Rep. Hughes doubled down on the Chairman’s assertions, stating, “It is time to ban the sale of machine guns and silencers, the basic tools of racketeers, drug traffickers, and professional killers.” He went on to explain that banning these items was a “modest and balanced approach” because “machine guns and silencers do not have a sporting purpose,” falsely insinuating that Second Amendment protections are predicated on a device’s utility amongst hunters ([Congressional Record, 1985, p. 22805](#)).

Perhaps inadvertently highlighting the government’s inextricable link between banning opiates and cocaine that began with the Harrison Narcotics Tax Act, and the government’s repeated attempts to do the same through the National Firearms Act, Hughes asserted that a “machine gun, fitted with a silencer, is the weapon of choice for the ‘narcoterrorists’ on the American scene, the cocaine cowboys of south Florida.” As if oblivious to the inflammatory nature of his statements, he described the precursor to FOPA as an opportunity “to cool down the rhetoric and move ahead in a practical, balanced and reasonable way” ([Congressional Record, 1985, p. 22805](#)).



As the legislative process progressed, lawmakers removed the provisions to ban and buy back machine guns and suppressors. During floor debate on April 10, 1986, however, Rep. Hughes proposed House Amendment 777 to reincorporate the prohibition on the sale of machine guns to civilians that were not registered in the NFRTR and lawfully possessed prior to the bill's date of enactment. Known colloquially as the Hughes Amendment, it was adopted and incorporated into the legislation by a voice vote ([H.Amdt. 777 to H.R. 4332, 1986](#)).

Fifty-two years and three days after General Reckord prophetically summarized “the usual trend” of gun control, his prediction once again came true. When President Reagan signed FOPA into law on May 19, 1986, the stroke of his pen created a time capsule of sorts for machine guns ([S. 49, 1985, p. 453](#)). According to ATF, as of June 2025, of the 2,382,403 machine guns in the federal registry, only 234,718 are “transferable” to civilians. However, they note, “these machine guns may no longer function, or they may be actually possessed by government entities, ... licensed entities, ... or individuals outside of the United States” ([Bureau of Alcohol, Tobacco, Firearms and Explosives, n.d.-b](#)). Given the complete prohibition on adding new machine guns for civilian use to the registry, or even replacing transferable machine guns that are lost, damaged, destroyed, exported, or procured by government entities, the Hughes Amendment is undoubtedly one of the most constitutionally dubious aspects of the NFA and GCA.

Prior to FOPA's enactment, suppressors were defined in regulation, but not in statute. Under the original 1934 regulation,

The term ‘muffler’ or ‘silencer’ includes any device for silencing or diminishing the report of any portable weapon, such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive, and is not limited to mufflers or silencers for ‘firearms’ as defined in the Act ([U.S. Bureau of Internal Revenue, 1934, p. 3](#)).

Although the law did not include Rep. Rodino's desired ban on suppressors, it did create a far more expansive statutory definition in the GCA.

The terms ‘firearm silencer’ and ‘firearm muffler’ mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication ([S. 49, 1985, p. 451](#)).

Lawmakers incorporated “any combination of parts ... intended for use in assembling or fabricating a firearm silencer” in the definition in an attempt “to control the sale of incomplete silencer kits that ... circumvent the prohibition on selling complete kits” ([U.S. House of Representatives, 1986, p. 1347](#)). When asked by Rep. Hughes how easy it is for criminals to procure a silencer, ATF Director Stephen E. Higgins explained to the House Judiciary Subcommittee on Crime that “it is very simple to make one yourself” ([Hearing Before the Subcommittee on Crime of the House Committee on the Judiciary, 1986, p. 121](#)). Director Higgins understood that anyone with a rudimentary tube and washers could create a functional suppressor. Even before the statutory definition was established, manufacturing a suppressor under any circumstances without prior government approval was a felony punishable by up to 10 years' imprisonment and a fine of up to \$10,000 ([H.R. 17735, 1968, p. 1234](#)). However,



criminals, by their very nature, inherently ignore the laws that govern them. Thus, it should come as no surprise that, as ATF Firearms Technology Branch (FTB) Chief Edward Owen testified, “the vast majority of suppressors that we encounter are made from kits or homemade suppressors” ([Hearing Before the Subcommittee on Crime of the House Committee on the Judiciary, 1986, p. 122](#)).

While performative statements about protecting the interests of sportsmen abounded since the first debates on the NFA, it is abundantly clear that many government officials viewed Second Amendment protections afforded to law-abiding citizens as a mere hurdle to clear in their ends-justified pursuit of civilian disarmament. Two years after the NFA’s enactment, in 1936, an article in the *New York Times* noted that only one person had paid the \$200 transfer tax for an NFA item. In response, a Department of Justice spokesman recognized:

We certainly don’t expect gangsters to come forward to register their weapons and be fingerprinted, and a \$200 tax is frankly prohibitive to private citizens. ... The purpose of the act was to give us a check on all weapons being manufactured and to permit us to prosecute any person found in possession of an unregistered weapon ([The New York Times, 1936-b](#)).

FOIPA’s broadened definition demonstrated that, at least in terms of the government’s lopsided tug of war between constitutional rights and enacting restrictions under the guise of public safety considerations, very little had changed in more than 50 years.

Another key aspect incorporated into the definition of suppressors is the phrase “any part intended only for use in such assembly or fabrication.” When FTB Chief Owen demonstrated to the Subcommittee “how easy it is to make a silencer,” as ATF Director Higgins remarked, Owen noted that “quite frequently the tubing is acquired through a standard commercial outlet.” The government used this clause in the definition to necessarily delineate between components that “are specifically designed for use in a sound suppressor” and items that serve alternative functions ([Hearing Before the Subcommittee on Crime of the House Committee on the Judiciary, 1986, pp. 121, 132–133](#)).

Without this differentiation, anyone in possession of tubing, washers, steel wool, aluminum eyelets, oil filters, or any other commercially available off-the-shelf products found at generic hardware stores that could be used to help reduce a firearm’s sound signature would have violated the law. For that matter, so would anyone in possession of a two-liter soda bottle and duct tape. While this provision has, since its inception, been a significant point of debate between the suppressor industry and ATF, the letter of the law clearly states that, in order to be regulated as a silencer part, both the intent to use the part in the construction of a suppressor and the lack of a secondary function must exist in tandem ([Bureau of Alcohol, Tobacco, Firearms and Explosives, 2022a](#)). In other words, if the component has a dual use, it is not considered a silencer part.

The Establishment of the Instant Background Check and the Reorganization of the ATF

In 1993, President Bill Clinton signed the Brady Handgun Violence Prevention Act into law. Although it did not directly alter the NFA, the Brady Act created the Federal Bureau of Investigation (FBI) National Instant Criminal Background Check System (NICS), which went operational on November 30, 1998 ([Federal Bureau of Investigation, 2016](#)). Since its inception, NICS has served as the



primary federal background-check system for all firearms transactions through licensed entities, including those involving NFA-regulated items. Statutorily, the Brady Act gives NICS three business days to approve or deny a background check for rifles, pistols, or shotguns, or the sale can legally proceed at the discretion of the licensee who initiated the inquiry ([H.R. 1025, 1993, p. 1539](#)). Without this shot clock of sorts, the government would have been able to, at its discretion, effectively ban firearm sales to civilians through indefinite delays.

In contrast, NFA items are not statutorily covered by the three-business-day mandate. As a direct result, transfers of NFA items have historically taken months or years to process ([Bureau of Alcohol, Tobacco, Firearms and Explosives, 2022b, p. 13](#)). Unless and until the government is required to process NFA applications within a predetermined timeframe, the availability of all items regulated by the NFA will remain subject to the whims of unelected bureaucrats who administer the regulations.

When President Bush signed the Homeland Security Act of 2002, the roles and responsibilities of ATF were split between the Department of the Treasury and the Department of Justice. The Alcohol and Tobacco Tax and Trade Bureau (TTB), which remained under the jurisdiction of the Treasury Department, was established as an administrative arm to oversee revenue collection for excise taxes on alcohol, tobacco, firearms, and ammunition ([Alcohol and Tobacco Tax and Trade Bureau, n.d.](#)). The remaining ATF functions, which included law enforcement responsibilities, administering the NFA tax, and regulatory authority over the firearms and explosives industries, were transferred to the Department of Justice ([U.S. Department of Justice, Office of the Inspector General, 2007-a](#)). In the process, ATF was renamed the Bureau of Alcohol, Tobacco, Firearms and Explosives to reflect ATF's longstanding control over explosives ([Bureau of Alcohol, Tobacco, Firearms and Explosives, n.d.-a](#)). Ironically, despite losing almost all jurisdiction over alcohol and tobacco, both of those monikers remained.

Regulatory Reform and the Chief Law Enforcement Officer (CLEO) Requirement

The next major reform to the National Firearms Act came through ATF 41F, an administrative ruling in 2016 that significantly altered the role of local law enforcement in the NFA application process, as well as the way NFA trusts, partnerships, corporations, companies, and associations procure NFA items. When the first NFA regulations were published in 1934, Article 65 mandated as follows:

If the applicant is an individual, he shall attach to each copy of the application an individual photograph of himself taken within 90 days prior to the date of such application, affix his fingerprints, and furnish such other data as Form 4 (Firearms) requires. ... The application must be supported by a certificate of the local chief of police, sheriff of the county, United States attorney, United States marshal, or such other person whose certificate may in a particular case be acceptable to the Commissioner, that he is satisfied that the fingerprints and photograph appearing on the application are those of the applicant and that the firearm is intended by the applicant for lawful purposes ([U.S. Bureau of Internal Revenue, 1934, pp. 13–14](#)).

Computerized instant background checks did not exist in 1934, quite certainly because the first programmable computer had not yet been invented ([Rojas, 1997](#)). At the time, one of the only ways to verify that a person could lawfully possess an NFA item was through local law enforcement, who ostensibly knew of the bad actors in their communities. Requiring a Chief Law



Enforcement Officer (CLEO), as they are now known, to certify NFA applications was the contemporary analog in 1934 to the modern FBI NICS check.

Unlike the NICS check, there was never a requirement that CLEOs use objective criteria to base their certification decisions. If, for any reason, a CLEO did not want to certify an NFA application, they were not compelled to do so, nor were they required to provide any justification. Race, religion, political affiliation, perceived liability, or sheer laziness on the part of the law enforcement officer were equally acceptable reasons to withhold certification as an applicant's criminal history. For 13 days shy of 82 years, CLEOs were afforded the exact "dictatorial control" that General Reckord warned of. When 41F took effect on July 13, 2016, local law enforcement's carte blanche veto power over NFA applicants came to an abrupt end.

The path to eliminating the CLEO certification was not without extensive debate. In 2013, when ATF announced 41P, the notice of proposed rulemaking that ultimately became 41F, the initial draft sought to extend the CLEO certification requirement for individuals to corporations, NFA trusts, and other legal entities ([Department of Justice, 2013](#)). Groups like the American Suppressor Association and the NRA pushed back, advocating instead for the complete elimination of CLEO involvement in the federal process ([Department of Justice, 2016](#)). Both groups noted the unconstitutional nature of the veto power afforded to local authorities, as well as the regulation's circumvention of federal tax privacy laws through forcing applicants to submit federal tax information to state or local officials.

When the final rule was published, it replaced the CLEO certification requirement for individuals with a mandate that every applicant, including all responsible persons for NFA trusts or legal entities, notify their CLEO of their intent to procure an NFA item by sending them a duplicate copy of their Form 1 or Form 4 application ([Department of Justice, 2016, pp. 2721–2722](#)). By eliminating the certification requirement, ATF took the longstanding veto power out of the hands of local officials. However, requiring notifications for all applicants exacerbated privacy concerns regarding the sharing of privileged tax information. What is more, the duplicate Form 1 or Form 4 that applicants are obligated to send contains sufficient information for officials to establish local registries of NFA items. Until this regulatory provision is abolished, the privacy of law-abiding citizens exercising a constitutional right remains infringed.

41F also mandated that everyone associated with a legal entity complete a Form 5320.23 Responsible Person Questionnaire (RPQ) with each NFA application ([Department of Justice, 2016, pp. 2721](#)). In a significant departure from the statute, which has always explicitly required individual applicants to submit fingerprints and a photograph ([26 U.S.C. §§ 5812, 5822](#)), the regulation also mandated that all responsible persons include both fingerprints and photographs as part of the new questionnaire ([Department of Justice, 2016, p. 2723](#)). Had Congress intended to require all applicants to submit these identifying features, it would not have specified that only individuals were required to do so. Furthermore, while they may have played a significant role in the pre-digital background-check environment, the utility of fingerprint cards and photographs as tools for vetting NFA applicants became superfluous and obsolete when the NICS system went operational in 1998. Coupled with the fact that ATF spends between \$12.75 and \$14.50 to transmit a single set of fingerprint cards to the FBI, unnecessarily costing taxpayers millions of dollars each year, few, if any, credible justifications remain for their



continued inclusion in the NFA process ([Department of Justice, 2013](#); [Department of Justice, 2016, pp. 2699](#)).

OBBBA and the Elimination of the Transfer Tax

The most recent amendment to the National Firearms Act took effect on January 1, 2026, when the One Big Beautiful Bill Act (OBBBA) eliminated the tax on making and selling suppressors, short-barreled rifles, short-barreled shotguns, and AOWs (H.R. 1, 2025; [Congressional Research Service, 2025](#)). For the first time in 91 years, law-abiding Americans were able to make and sell these NFA items without paying the government a punitive \$200 tax (\$5 for AOWs). Throughout its existence, the constitutionality of the NFA has been entirely predicated on the taxes associated with each item it regulates. As it pertains to any untaxed items, without the predicate tax, the National Firearms Registration and Transfer Record is nothing more than an unjustified federal gun registry. In response, the American Suppressor Association, NRA, Second Amendment Foundation, and Firearms Policy Coalition have filed three lawsuits challenging the constitutionality of the continued inclusion of suppressors, short-barreled firearms, and AOWs in the NFA ([Brown v. ATF, 2025](#); [Jensen v. ATF, 2025](#); [Roberts v. ATF, 2026](#)).

ATF's New Era of Reform

Eighteen days after he was sworn into office for his second term, President Trump signed the first explicitly pro-gun executive order (EO) in history ([Exec. Order No. 14206, 2025](#)). Titled “Protecting Second Amendment Rights,” the groundbreaking EO directed the Attorney General to review and undo the myriad ways in which the Biden Administration exploited the powers of the executive branch to directly infringe upon the Second Amendment ([The White House, 2025](#)).

On April 29, 2026, mere minutes after the Senate voted to confirm Robert Cekada as the first Republican confirmed Director of the ATF, Acting Attorney General Todd Blanche and Director Cekada issued their response to the Executive Order through a signing ceremony for the most comprehensive package of firearms regulatory reform in the Bureau's history ([Bureau of Alcohol, Tobacco, Firearms and Explosives, 2026b](#)). Issued as part of ATF's “New Era of Reform,” the landmark package of 34 final and proposed rules was designed as the first wave of the ATF's efforts to claw back nearly a century of regulatory infringements on the right to keep and bear arms. Among the notices of proposed rulemaking (NPRMs) are efforts to remove the CLEO notification from the NFA process, allow married couples to jointly register their NFA items without having to establish an NFA trust or legal entity, and eliminate the need to notify the ATF when crossing state lines with NFA items for fewer than 365 days ([Bureau of Alcohol, Tobacco, Firearms and Explosives, 2026b](#)). The comment periods for these NPRMs close between July 6 and August 6, 2026, after which the ATF will consider the comments and issue a final rule.

Conclusion

For nearly a century, the National Firearms Act has served as the proverbial camel's nose for the gun control movement. The architects of the NFA were crystal clear in their intent to use compulsory taxation and registration requirements as the stepping stone to ultimately ban civilian ownership of firearms. The Harrison Narcotics Tax Act and the subsequent Marihuana Tax Act provided the Roosevelt Administration and lawmakers with the blueprints upon which they built their insidious scheme to stretch the limits of Congress's taxing power to directly curtail the Second Amendment ([U.S.](#)



[Customs and Border Protection, n.d.](#)). Over time, as the controversial nature of these initial restrictions faded from memory, future generations of lawmakers expanded the original “regulation through taxation” laws on drugs by enacting new statutes that banned them outright. Under the guise of public safety, anti-gun lawmakers have repeatedly tried to do the same for firearms, successfully expanding the scope of the NFA multiple times, and even banning many semi-automatic rifles from 1994 to 2004 ([H.R. 3355, 1994](#)). Unless and until the Supreme Court steps in and explicitly puts an end to the unrelenting legislative and regulatory assault on the Second Amendment, the practical application of the constitutional right of the people to keep and bear arms will remain subject to government infringement.

Along the way, organizations such as the NRA have successfully stymied some of the more egregious attempts to broaden the NFA, including multiple efforts to require universal registration and taxation of all firearms. The elimination of the transfer tax for suppressors, short-barreled firearms, and AOWs was a profound step toward undoing the historical one-way ratchet of the NFA, opening the door for a constitutional challenge of the law itself. As long as the NFA remains intact, it stands as a stark reminder that anti-gun government officials can and will use any tool in their arsenal to perniciously infringe upon the constitutional rights of American citizens. Thus far, decades of unyielding anti-gun “effort[s] to completely disarm the average citizen” have fallen short; however, to preserve the America First way of life, critical steps must be taken to dismantle the National Firearms Act and its adjacent restrictions.

Recommendations

Suppressors and short-barreled firearms should be removed from the NFA.

While the cleanest way to dismantle the NFA would be to repeal the law in its entirety, the removal of suppressors and short-barreled firearms from the NFA is far more politically viable. This goal could be accomplished through legislative or judicial means.

Suppressors, also known as silencers, are hearing protection devices that reduce the audible report of a firearm to safer sound levels. Contrary to Hollywood-based misconceptions, no device can actually silence the noise of a gunshot. Suppressors are used so infrequently by criminals that the FBI does not include them in its statistical analysis of crime data. As a result, ATF leadership has publicly stated that suppressors “should not be viewed as a threat to public safety necessitating NFA classification, and should be considered for reclassification under the GCA” ([Turk, 2017](#)).

FBI data shows that short-barreled firearms are also rarely used in crimes. In the 10 years between 2015 and 2025, rifles of any type were used in just 2% of all homicides—the same percentage as blunt objects such as hammers or baseball bats. This number includes all semi-automatic AR-15 type rifles, lever-action rifles, bolt-action rifles, single-shot rifles, short-barreled rifles, and every other type of rifle in circulation. Shotguns of any type, including short-barreled shotguns, semi-automatic shotguns, pump-action shotguns, single-shot shotguns, and every other type of shotgun, were used in around 1% of homicides. In contrast, knives were used in 10% of all murders—roughly three times as many as all rifles and shotguns combined ([FBI Uniform Crime Reporting Program, n.d.](#)).

Despite nearly a century of byzantine regulations, as of July 1, 2026, there were 6,501,964 suppressors and 1,396,950 short-barreled firearms in circulation in the United States, unquestionably surpassing any subjective common use threshold ([Bureau of Alcohol, Tobacco,](#)



[Firearms and Explosives, 2026a](#)). Even if every suppressor, short-barreled rifle, short-barreled shotgun, non-NFA rifle, and non-NFA shotgun were somehow immediately confiscated, the impact on crime would be virtually statistically undetectable. Not only does this data highlight the unnecessary nature of the inclusion of these items in the NFA, but it also demonstrates that attempts to ban or restrict access to long guns of any type are fundamentally not evidence-based.

Remove local law enforcement from the NFA process.

Since the advent of the FBI National Instant Criminal Background Check System, the involvement of local law enforcement in the NFA process has been superfluous at best. The requirement that applicants notify their Chief Law Enforcement Officer of their intent to make or purchase any NFA item by sending a copy of their completed ATF Form 1 or Form 4 application—a federal tax document that includes the applicant’s address, as well as the make, model, and serial number of the firearm—is a massive breach of privacy. This antiquated vestige of the 92-year-old law is no longer necessary, as every applicant must pass a federal NICS background check as part of the application process. Eliminating CLEO involvement in the NFA process would protect the privacy of law-abiding gun owners while simultaneously ensuring that local law enforcement cannot create registries of gun owners within their jurisdiction. For these reasons, AFPI supports the adoption of proposed rule ATF No. 2025R-15P ([Federal Register, 2026](#)).

Prevent the creation of additional gun registries.

When purchasing an NFA item, applicants must complete an ATF Form 4473 in addition to the ATF Form 4. In 2022, the Biden Administration promulgated a rule that requires Federal Firearms Licensees (FFLs) to maintain possession of all Form 4473s in perpetuity. When an FFL goes out of business, it is required to send all of its Form 4473 records to the ATF, effectively giving the government an analog database of all firearm transactions ([Federal Register, 2022](#)).

To ensure that federal firearms records for non-NFA items cannot be used to create a database or registry of firearms transactions, and to ensure that 4473 records of NFA items cannot be used to create a secondary database or registry in the event that any items are removed from the NFA, FFLs should once again be permitted to destroy old Form 4473 records. Ideally, FFLs should be able to do so immediately. At a minimum, ATF should return to the pre-Biden era framework which allowed FFLs to destroy records after 20 years. Additionally, ATF should be required to destroy all Form 4473 records in its possession that are more than 20 years old. For these reasons, AFPI supports the amendment of proposed rule ATF No. 2025R-08P with the minimum record retention period possible ([Federal Register, 2026](#)).

Establish a maximum timeframe for NFA transfers.

Federal law gives the FBI up to three business days to complete the NICS background check for a non-NFA firearms transfer. If the background check is incomplete after three days, the sale can proceed. Without this provision, the government could delay firearms transactions indefinitely.

Items regulated under the NFA have no similar shot clock, which is why average wait times for NFA items have historically ranged from multiple days to even years. Establishing a maximum allowed time window for NFA transfers would ensure that the NFA transfer process cannot be



weaponized against the industry or the law-abiding Americans seeking to exercise their Second Amendment rights.

Modernize the NFA transfer process.

As a 92-year-old law, the NFA transfer process was initially developed before the advent of the computer. While statutory and regulatory amendments have updated certain aspects of the law, the transfer process is still replete with many antiquated and unnecessary steps and systems.

So long as the NFA exists, ATF and Congress should take active measures to streamline the transfer process for all NFA items. This includes opportunities such as establishing a system for reliable same-day NFA transfers, eliminating the fingerprint and photograph requirements for all applicants, removing CLEO involvement in its entirety, and allowing applicants to submit multiple items on the same Form 1 or Form 4 application.

Allow American suppressor manufacturers to export commercially.

Current regulations prohibit American suppressor manufacturers from competing in commercial markets abroad. Steps should be taken to immediately transfer the jurisdiction of suppressors from the State Department to the Commerce Department. This transfer would give American manufacturers the ability to compete in thriving international markets for the first time. This America First initiative would create hundreds of American jobs and generate hundreds of millions of dollars in new American export opportunities.



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