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THE BUMP STOCK CONTROVERSY



FIREARMS
LEGAL PROTECTION



Rifle which a bump stock would go on

Let us start by refreshing ourselves on what a bump stock is and what it does. A bump stock replaces a standard rifle stock which is held against the shoulder. Instead of being rigid like a normal rifle stock, a bump stock (most notable models produced by Slide Fire Solutions out of Texas) allows the rifle to slide backward with the recoil of the rifle and bounce forward again. By keeping the finger on the trigger, this “slide back and forth” action allows the trigger to be pulled every time the rifle bounces back. This means the trigger can be pulled multiple times very quickly. This technique is often called “bump firing”. Before the invention of the Slide Fire stock, this technique could be achieved by simply hooking a thumb through a belt loop (keeping the hand and trigger finger in the same place) and pulling the rifle forward. The forward motion forces the trigger to be pulled. The recoil pushes the rifle back. The continued forward pull causes the trigger to be pulled again. This continues until the forward pull relaxes or ammunition runs out. As you can imagine, this process is not precise or accurate and wastes a lot of ammunition. Thus, “bump-firing” was more often used more as a “party trick” than a common shooting method.

The ban of the bump stock all started in result of the possible use of a bump stock in a mass shooting in Las Vegas back in 2017. The U.S. Department of Justice announced a plan to reclassify the bump stock to be a “machine gun”. Machine guns are subject to the National Firearms Act (NFA) and are highly regulated. This would effectively ban bump stocks nationwide, despite thousands of stocks being regularly used across the country on a regular basis without incident. The National Firearms Act (NFA) defines a “machine gun” to include “any **weapon** which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.” This means that any firearm that fires more than one shot each time the trigger is pulled is classified as a machine gun. We can also conclude that any firearm that only fires a single shot when the trigger is pulled is not considered a machine gun and therefore is not subject to those same regulations. This is obviously a controversial discussion when this rule is applied to a device that in no way modifies the function of the trigger.

You might immediately say...

“But a bump stock is an accessory, not a firearm. How can a plastic stock be regulated as a gun?”

The general stance of the BATFE Firearms and Ammunition Technology Division (FAT-D) is that adding or modifying a part can change the definition of a firearm, turning a legal firearm into a different type of firearm. For example, cutting down the barrel of a rifle can turn it into a short-barreled rifle – a process that is illegal unless it is preceded by a Form 1, the process to legally build an NFA regulated item.

This brings us to the controversy over the ban of bump stocks by the U.S. Department of Justice. Did the Las Vegas shooter use a device that helped him fire faster? If he did, does that have any bearing on how a firearm should be defined? Authorities say Paddock had at least 23 guns in his room at the Casino. Determining whether the gun he used

had the bump stock device was under the purview of the FBI and the County Clerk to verify, something that was never publicly made clear. As a result of the Las Vegas shooting in 2017, former President Donald Trump ordered the Justice Department to urgently ban “all devices that turn legal weapons into machine guns”. Though bump stocks are legally manufactured devices and were perfectly legal to attach to a weapon, they were to be included in this prohibition. This statement caused a huge uproar in the firearms community. Ultimately, this decision would determine whether an accessory can be regulated in the same manner as the NFA item that it supposedly creates.

SHOULD THERE BE A BAN?

Determining whether there should be a ban or a regulation of bump stocks becomes a delicate decision. The rewriting of the federal statute concerns would cause Americans to become criminals overnight, not to mention that this decision is being made by officials who were not elected by the American public. The prohibition of bump stocks began with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives, (BATFE) who stated that bump stocks were now illegal machine guns and would be viewed and regulated as such. This means that the product would need to be serialized and that the transfer and sale of these items would require a tax stamp, ATF approval, and a lot of paperwork. That alone is discouraging, but unfortunately, it gets even more complicated. The Hughes Amendment (passed in 1986, signed by President Ronald Reagan) prohibited the manufacture of any new machine guns, excluding development for the military and law enforcement, which requires a Specialized Occupational Taxpayer (SOT) license. Therefore, the limited number of machine guns that can actually be transferred legally tend to be very old and very expensive. They are scarce, and not statistically used in crimes to any notable degree (according to FBI and CDC data). Because bump stocks were not serialized, nor ever produced before May of 1986, this effectively means that there are no legally transferrable bump stocks and that new production of these stocks cannot continue if they are regulated like machine guns.

About a year ago, the Supreme Court turned down the appeal on the bump stock ban. This case would have clearly determined whether a bump stock can be regulated as a machine gun. By not hearing the case, it remained unclear.

A year later, a lower court did hear an appeal. The Sixth Circuit Court decided, “The federal ban on bump stocks—devices that increase the rate of fire for semiautomatic weapons—is likely unlawful and must be put on hold” on March 25th, 2021.

Does this mean that bump stocks are now legal? Likely, but putting enforcement of something “on hold” is not as clear as passing a law or changing a legal definition. Bump stocks have already gone a full 360 degrees from legal to banned, to likely legal again; we suspect the story is not over yet.



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