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## WHO'S UNDER THE GUN?

### *THE ATF, THAT'S WHOM*

*Going after gun controllers, for the usual reasons*



*For Police Issues by Julius (Jay) Wachtel.* As bad as things may seem for the FBI (see its own "[Under the Gun](#)" post,) the highly-regarded law enforcement agency's prospects have definitely *not* fallen to ATF's level. While no Federal legislator proposes to do away with the "Feebs" altogether, thirty-three Representatives recently signed on to [House Bill 221](#), the "Abolish the ATF Act." Introduced by [Rep. Eric Burlison \(R-MO\)](#) on January 7th., its full text is presently comprised of a single, unambiguous sentence: "The Bureau of Alcohol, Tobacco, Firearms and Explosives is hereby abolished." Natch, in our ideologically-split land, it's no surprise that Rep. Burlison and each of his co-conspirators (oops, we meant co-signers) are "Reds."



But if ATF can't simply be booted out, [Rep. Tracey Mann \(R-KS\)](#) has proposed a measure that would in effect achieve the same purpose. Modeled after lawsuits filed by the Gun Owners of America (click [here](#) and [here](#),) [House Bill 624](#), the RIFLE Act ("Reining In Federal Licensing Enforcement") is a re-play of [a measure](#) that Rep. Mann introduced during the last term (graphic on the left.) Zeroing in on that noxious, "zero-tolerance" regulatory approach over firearms dealers that was imposed by the recently-toppled "Blue" regime, his proposal narrowly defines "willful" (i.e., purposeful) misconduct, which can strip dealers of their licenses and even lead to prosecution. Multiple instances of flawed record-keeping would normally be treated as a single event. What's more, even when missteps seem intentional, licensees would usually have to be given an opportunity to mend their ways. And if those nasty Feds still insisted on taking their license, dealers would get elaborate hearings before administrative law

judges – in effect, mini-trials – where the Government would have to prove two things: that a violation was committed “willfully,” and that letting the dealer stay in business “poses an immediate and grave threat to public safety.”

So there!

Twenty-eight House members affixed their John Hancocks as co-signers to Rep. Mann’s bill. Again, all are “Reds.” Many have also introduced their own gun-related measures during the present term. Here’s a look at a few:

**1. Repeal the NFA Act ([H.R.335](#)):** Rep. Burlison (of “Abolish ATF” fame) also presented a bill to repeal the [National Firearms Act](#), a long-established Federal law that imposes fees and strict conditions on the manufacture, possession and transfer of machineguns and other restricted weapons. [He’s particularly incensed](#) that pistols with mere “stabilizing braces” are being treated as killer short-barreled rifles.

**2. ATF Accountability Act of 2025 ([H.R.607](#)):** Rep. Dan Crenshaw (R-TX) would institute a 90-day time limit for the Attorney General to rule on challenges to gun regulatory decisions. Equally timely decisions by administrative law judges [are also part of the mix](#).

**3. Define silencers as an ordinary gun accessory ([S.364](#), [H.R.850](#), [S.345](#), [H.R.631](#)):** Senators Mike Crapo (R-ID) and Mike Lee (R-UT) and Reps. Michael Cloud (R-TX) and August Pflueger (R-TX) believe that [the hearing protection](#) assertedly afforded by silencers warrants their removal from the special fees and registration requirements presently imposed by Federal law.



**4. Prohibit States and localities from superseding Federal gun laws ([H.R.373](#)):** Rep. Claudia Tenney (R-NY) proposes to prohibit States and cities from outlawing the possession of firearms [that are legal under Federal law](#). Say, [New York State](#), which has supposedly trampled on the Second Amendment by outlawing high-capacity magazines and guns with “military-style” features.

**5. Transparency Act ([H.R.613](#)):** Rep. Russ Fulcher (R-ID) would impose a 90-day time limit on criminal background checks for gun sales and transfers. And, as well, on the adjudication of appeals filed by would-be buyers who get turned down. If the Government can’t do it within this time-frame, [sales are to be considered approved](#).

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**6. Eliminate the national firearms registry** ([H.R.563](#) and [S.119](#)): Rep. Michael Cloud (R-TX) and Sen. James Risch (R-ID) introduced legislation that authorizes gun makers, distributors and dealers to throw away their sales records when they go out of business. At present they must turn them over to ATF, which uses the documents to create a registry that enables law enforcement agencies to identify the last known purchaser of guns they seize on the street. All sales records in ATF's possession [would also have to be destroyed](#).

**7. Merchant category codes** ([H.R.1181](#) and [H.R.1224](#)): Reps. Riley Moore (R-WV) and Andrew Ogles (R-TN) propose to do away with codes used by credit card companies that identify merchants [as gun or ammunition dealers](#).

**8. State and local insurance requirements** ([H.R.943](#)): Rep. Ronny Jackson (R-TX) [would prohibit States and localities](#) from imposing firearms-related taxes or fees or requiring that gun owners carry liability insurance.

“Blues” also want to tinker with gun laws. As one would expect, their preferences run in the opposite, gun and gun dealer-unfriendly direction. Here are some of the measures they've introduced during the present session:

**1. Prompt reporting of missing guns** ([H.R.1456](#)): Rep. Sean Casten (D-IL) would require that lost or stolen guns “be reported to law enforcement authorities within 48 hours.” He has eighteen co-sponsors.

**2. Prohibit persons under 21 from buying highly lethal firearms** ([S.597](#)): Sen. Alex Padilla's (D-CA) proposal [would prohibit anyone under 21](#) from buying an assault weapon or high-capacity magazine. He's also got 18 co-sponsors.

**3. Improve gun storage to prevent theft** ([H.R.1097](#) and [S.468](#)): Rep. Bradley Schneider (D-IL) and Sen. Richard Durbin (D-IL) have introduced companion measures that [require firearms licensees](#) to provide highly secure storage, including alarms and cameras, to safeguard their inventories and records.

**4. Authorize private lawsuits against makers or sellers of unserialized “ghost guns” and ghost gun parts** ([H.R.544](#)): Rep. Ritchie Torres (D-NY) introduced a bill that would allow persons injured by unserialized guns, and their families, to sue their sellers and makers in Federal court.

**5. Study gun trafficking along I-95's “Iron Pipeline”** ([H.R.543](#)): Rep. Torres also introduced a bill that directs ATF to report on the nature and source

of guns that are “trafficked” (i.e., illegally redistributed) along the East Coast’s main North-South corridor, and to suggest ways to combat the problem.

**6. Handgun Permit to Purchase Act** ([H.R.532](#) and [S.123](#)): Rep. Jamie Raskin (D-MD) and Sen Chris Van Hollen (D-MD) feel that Maryland’s handgun licensing law has proven effective in combatting gun crimes and suicides. They propose that the Federal government fund studies and implementations of such measures elsewhere.



**7. Re-establish the White House Office of Gun Violence Prevention** ([H.R.1307](#) and [S.595](#)): Rep. Maxwell Frost (D-FL) was behind legislation that created this office under Pres. Biden. It supposedly helped individuals and communities get funding and resources to combat gun violence. But the office was promptly shuttered by the new regime. He and Sen. Christopher Murphy (D-CT) want to bring it back. Rep. Frost has 115 co-sponsors; Sen. Murphy has seven. All are “Blues.”

What’s our take? None of the proposals we’ve examined, whether “Red” or “Blue,” focuses on an issue dear to our heart: licensee misconduct. Your writer spent the last few years of his career as an ATF special agent leading a gun trafficking group in Los Angeles. That’s where he discovered that misbehavior by firearms dealers is a major source of the killer guns that wind up on the street. His post-retirement journal article, “[Sources of Crime Guns in Los Angeles, California](#),” examined (among many other things) twenty-eight gun diversion investigations conducted by L.A.-area ATF agents during 1992-1995. These addressed the diversion of 19,145 guns. Seventy-one percent (13,667) had gone through the hands of fifteen licensed dealers who falsified sales records or kept none at all. (For an instance with a particularly tragic outcome, check out “[The Pistol That Killed Officer Heim](#).”)

“[Following the Gun](#),” a landmark 2000 ATF study, confirmed that misconduct by Federal firearms licensees (FFL’s) was indeed a major problem:

Although FFL traffickers were involved in the smallest proportion of ATF trafficking investigations, under 10 percent, FFL traffickers were associated with by far the highest mean number of illegally diverted firearms per investigation, over 350, and the largest total number of illegally diverted firearms, as compared to the other trafficking channels.

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Alas, the agency's vigor for pursuing misbehaving licensees has long been in question. In May 2021 *The Trace* and *USA Today* released [a deeply-researched analysis](#) of "nearly 2,000" gun dealer inspections during 2015-2017 that led to a penalty, from a warning letter to a (rare) license revocation. It concluded that even licensees who "repeatedly" broke the rules were usually treated with a light touch, thus allowing them to continue their (highly consequential) predations:



The reports showed some dealers outright flouting the rules, selling weapons to convicted felons and domestic abusers, lying to investigators and fudging records to mask their unlawful conduct. In many cases when the ATF caught dealers breaking the law, the agency issued warnings, sometimes repeatedly, and allowed the stores to operate for months or years. Others are still selling guns to this day.

In June 2021 (only a month after that uncomplimentary assessment) the Biden administration announced a measure to cut down on gun crime. Its "Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety" promised to address gun violence "by taking immediate steps to keep guns out of the wrong hands." (It's been removed from the White House website, so we downloaded it from the *Wayback Machine*. Click [here](#) for the whole thing, and [here](#) for BJA's summary, which so far remains online.)

A month after President Biden issued his plan, ATF announced its now-notorious ["zero-tolerance" policy for gun dealer misconduct](#). Here's an extract:

Absent extraordinary circumstances, an inspection that results in a finding that an FFL has willfully committed any of the following violations shall [emphasis ours] result in a revocation recommendation: (a) The transfer of a firearm to a prohibited person; (b) Failing to conduct a required background check; (c) Falsification of records, such as a firearms transaction form; (d) Failing to respond to an ATF tracing request; (e) Refusing to permit ATF to conduct an inspection in violation of the law.

Problems with gun dealers nonetheless persisted. ATF's [most recent inspections "fact sheet"](#) indicates that inspectors visited the premises of 8,689 firearms licensees in FY 2023. That was about six and one-half percent of the 132,383 licensees who were then in business. Reports of violation were completed for 1,531. "Warning letters" were issued to 667, "warning conferences" were held for 166, and 170 licenses were revoked.

Full stop. As one would expect, ATF's aggressive posture drew major blowback from gun enthusiasts and the firearms industry. Here's an outtake from the NRA's [recent](#)



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[parting shot](#) at former ATF Director Steve Dettelbach (he resigned when President Trump came in for round #2):

Perhaps worst of all was [the war on gun stores](#) under Dettelbach's "leadership." In short, an executive order from Biden directed Dettelbach's ATF to make life as difficult as possible for firearms dealers. This was done by implementing a "zero-tolerance policy," which may have punished the "rogue," "dishonest" gun dealers Biden claimed to be after, but also unfairly penalized law-abiding dealers for simple paperwork errors. As a result, the number of federal firearm licenses decreased by more than 1,600 since Biden took office.

In August 2024, ATF [issued a lengthy directive](#) to its inspectors reminding them that "not every repeat violation is per se willful." It also sets out, in mind-numbing detail, the circumstances that must be present to justify a revocation. [According to gun-skeptical The Trace](#), these "adjustments" actually proved minor and only led to a "slight" reduction in revocations.



ATF's failure to scrap its "zero-tolerance" approach got its ultimate comeuppance on February 7, 2025. That's when President Trump issued Executive Order "[Protecting Second Amendment Rights](#)." This Order, which is on the White House website, commands the Attorney General to devise a "plan of action" that would "protect the Second Amendment rights of all Americans." Probes are required in three key areas:

- (i)** All Presidential and agencies' actions from January 2021 through January 2025 that purport to promote safety but may have impinged on the Second Amendment rights of law-abiding citizens;
- (ii)** Rules promulgated by the Department of Justice, including by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, from January 2021 through January 2025 pertaining to firearms and/or Federal firearms licensees;
- (iii)** Agencies' plans, orders, and actions regarding the so-called "enhanced regulatory enforcement policy" pertaining to firearms and/or Federal firearms licensees...

And now, of course, there's newly-confirmed FBI Director Kash Patel. He was given ATF's reins as well. [Portrayed by The Trace](#) as "cozy with the most extreme flank of the gun rights movement," Mr. Patel has reportedly suggested abolishing ATF altogether. One-time Secret Service agent Dan Bongino, a notoriously "Red" podcaster whom Mr. Patel brought in as his deputy, [has expressed deep hostility towards the FBI](#). He also once posted on X that "[the Second Amendment was NOT a suggestion](#)."

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On the positive side, ATF's core mission – combatting violent crime – continues to draw favorable attention, and even from its purported critics. Consider Ed Martin, whom President Trump recently appointed as D.C.'s acting U.S. Attorney. To “make D.C. safe again” he announced a campaign to prosecute gun-toting felons on Federal charges, [and got a dozen extra ATF agents to help](#). In the recent past Mr. Martin openly criticized the Capitol riot cases as needless distractions from the fight against violence, and he seems to be an Administration favorite. So maybe there is hope for ATF.

Now, if we could only be sure that Elon Musk won't try to rescind retired agents' pensions...