



Overview of the ATF Pistol Brace Ban

On January 13, 2023, the Bureau of Alcohol, Firearms, Tobacco, and Explosives published its final rule banning pistol braces, a popular gun accessory that makes a firearm safer and easier to shoot.

This rule was added to the Federal Registry on January 31, 2023. This means the 120 day “grace period” begins on this date.

This rule is essentially a legislative action expanding gun control, which the ATF -- an executive agency -- has zero authority to enact. However, violating this rule could result in steep fines, prison time, and the loss of gun rights and voting rights.

This is just the latest in a series of unilateral gun accessory bans enacted by the ATF without congressional approval, and it is a massive expansion of the only gun registry currently legal under federal law. The ultimate goal is to bypass Congress and ban through executive action all semi-automatic firearms and to create a universal gun registry -- actions which the anti-gun left has never been able to pass legislatively.

What the Pistol Brace Ban Does

The new rule essentially classifies nearly every gun with a pistol brace attached as a short-barreled rifle, which is illegal to own unless registered with the ATF and paid for with a \$200 tax stamp.

Specifically, the ATF redefined “rifle” to include weapons with a stabilizing brace attached allowing the weapon to be fired from the shoulder, IF the following factors are also present to indicate the gun is intended to be fired from the shoulder:

- The weapon’s weight and length are consistent with similarly designed rifles;
- The weapon’s length of pull (the length between the trigger and the end of the shoulder stock or pistol brace) is consistent with similarly designed rifles;
- If the weapon has a scope or sights that can only be used if fired from the shoulder;
- If the length allowing the weapon to be fired from the shoulder is necessary to the cycle of operations (buffer tube, receiver extension, etc.);
- The manufacturer’s direct and indirect marketing indicates the weapon is designed to be fired from the shoulder;
- Information in the general firearms community indicates the weapon is likely to be fired from the shoulder.

Clearly, these criteria are imprecise at best and leave a lot of discretion to the ATF to enforce this rule selectively. (Who is to say what constitutes a manufacturer’s “indirect” marketing, and what it means? What constitutes general firearms community info, and how much of it has to demonstrate a weapon’s ability to be fired from the shoulder?)

However, the practical effect is that the vast majority of brace-equipped firearms are now

considered short-barreled rifles by the ATF and subject to NFA regulation.

What does this mean for individuals who own brace-equipped firearms?

DISCLAIMER: The following should not be taken as legal advice and gun owners seeking specific counsel should consult a lawyer.

Anyone who owns a weapon with a pistol brace attached has four options:

Option 1: Register your gun with the government.

This is the real goal of the rule, aided by the 120-day “grace period” allowing these guns to be registered for free -- you just have to tell the government what you own and who you are and you don’t have to pay a dime. The result? The ATF now has a massive gun registry containing a vast number of commonly owned firearms. This “grace period” only works for pistols equipped with braces. Any other type of short-barreled rifle was already an NFA item and felony to own if not already registered. Using this grace period for anything else is an additional felony for lying on an ATF form.

It should be noted that there are several potential pitfalls in the process of registering your gun. Under normal circumstances, an individual must request permission to own an NFA item (such as a short-barreled rifle) before possessing/owning the item. If you attempt to register a pistol/pistol brace configuration as a short-barreled rifle and are rejected or found to be a prohibited person, you are actively possessing an illegal firearm and are, by definition, a felon -- and the ATF knows it.

If you are successful in registering your pistol/pistol brace configuration as a short-barreled rifle you are now subject to the vast body of ATF regulations on NFA items. A few of the special rules for NFA items include onerous record-keeping regulations, transfer regulations, and reporting requirements. Violations of these regulations are felonies. The lengthy handbook can be viewed here: <https://www.atf.gov/firearms/national-firearms-act-handbook>

Option 2: Ignore the rule and risk becoming a felon.

This option may be tempting to a lot of gun owners, but the risks cannot be overstated. Owning a short-barreled rifle that you have not registered with the government is a felony that carries a fine of up to \$10,000, up to 10 years in federal prison, or both. Felony convictions come with a loss of gun rights and in some states, loss of voting rights. Factor in the \$117,539,000 in additional funding Congress just appropriated to the ATF, and a bill the Democrats are pushing to hire 200 additional ATF agents, and the consequences of violating this rule become extremely serious.

Option 3: Ask the ATF if your gun is a short-barreled rifle.

The ATF doesn’t have a comprehensive list of guns that become SBRs when

equipped with braces, nor does the rule contain a comprehensive list of specific criteria by which a pistol brace/weapon configuration will be evaluated and that gun owners can count on being objectively enforced. If you have questions about your gun, they suggest you send it in for classification (with a prepaid return shipping label). This highly discretionary “classification” process raises more concerns than answers -- if the gun owner ever hears back in the first place.

Option 4: Destroy your gun and/or your pistol brace.

Based on the ATF’s Q&A documentation, the gun doesn’t have to be attached to the pistol brace in order to qualify as a short-barreled rifle, so merely detaching the brace does not protect you in the event of an ATF raid. The brace has to be altered so that it cannot be reattached, or the gun barrel has to be lengthened. The other options suggested by the ATF are turning the gun in to the nearest ATF office or destroying it.

The Ultimate Goal: Universal Gun Registration and Confiscation

The pistol brace rule itself is “only a form,” gun owners are told. The ATF isn’t actually “banning” any guns -- and you don’t even have to pay the registration fee if you file your paperwork quickly.

But the consequence of buying that lie is to sit by and let the largest gun registration scheme in American history take place. This leaves gun owners between a rock and a hard place -- there are no good options.

By the ATF’s own estimate in the draft rule published in 2021, as many as 7 million pistol braces have been sold since 2013. The real number is likely much higher, especially given the increasing popularity of AR-style pistols which frequently come with stabilizing braces.

Until now, only a few classes of firearms and accessories were required to be registered under federal law -- such as short-barreled shotguns, short-barreled rifles, machine guns, silencers, etc. This rule, if allowed to stand, would establish the first mainstream gun registry, forcing millions of law-abiding Americans to register commonly owned firearms with the government.

This is a deliberate prelude to one day registering and taxing all rifles, pistols, or shotguns under the NFA -- and gun registration has ONE goal: gun confiscation.

This is the third firearm accessory that the ATF has unilaterally banned without any Congressional authorization. First it was bump stocks, then it was homebuilt firearms, and now it’s pistol braces. Every single regulation is one more step toward the end goal -- the outright ban on AR-15s that so far, Congress has been unable to pass.

This is not just about pistol braces. This is about the very core of the Second Amendment.

And as long as the courts do not step in and block executive agencies like the ATF from essentially legislating away gun rights, the anti-gun left will continue to use executive actions and regulations to bypass Congress and chip away at the Second Amendment until it is utterly destroyed.

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