



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Marlinsburg, WV 25405

www.atf.gov

907010: WJS
3311/304455

MAR 23 2016

Mr. James Malarkey
President
X Products, LLC

Dear Mr. Malarkey:

This refers to your recent letter and accompanying sample (see enclosed photos) to the Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms Technology Industry Services Branch (FTISB), in which you ask for a formal classification of your submitted sample; an accessory which when assembled to an AR-type firearm; is used to launch aluminum cans. This submission is in response to FTISB's previous determination of a similar product made by X Products (FTISB letter#304094).

As you are aware, the Gun Control Act of 1968 (GCA), 18 U.S.C. § 921(a)(3), defines the term "**firearm**" as follows:

...(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

Further, the GCA, § 18 U.S.C 921(a)(5), defines "**shotgun**," in part, as—

"...a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger."

Mr. James Malarkey

The National Firearms Act of 1934 (NFA), 26 U.S.C. § 5845(a), defines “**firearm**” as—

*“... (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) **any other weapon**, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the ...[Attorney General] ...finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.”*

As you are aware, the term “**any other weapon**,” as defined in the NFA, 26 U.S.C. § 5845(e), *includes a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell.*

The FTISB evaluation of the submitted item noted the physical characteristics which are described in detail herein. Our Branch personnel found the submitted device is green in color.

This sample as received, is a cup-type device made utilizing a AR-type upper assembly, a part made from a properly destroyed AR-type barrel, a smooth-bore “cup” or tube, incorporating a bore diameter of approximately 2.62 inches and measuring approximately 11-1/8 inches in length. This cup or tube is assembled over the AR-type “barrel portion” to hold or “chamber” an aluminum can and to further assist in containing the propellant gases during firing to generate pressure to expel the subject can from the “cup” or tube.

Our evaluation found the barrel portion is modified from its original design with machined holes through the interior of barrel, forward of the chamber. The first machined hole is located directly in front of the chamber. As a part of this device, we noted the muzzle portion of the barrel portion is welded to prevent a projectile from passing through. FTISB personnel also noted a metal blocking bar welded in the forward portion of the chamber, to prevent the chambering of a commercially available .223 Remington cartridge.

FTISB personnel observed the barrel portion of the submitted sample is not rifled and does not incorporate a gas port or gas block. FTISB personnel further noted the submitted sample is devoid of a gas tube assembly. Based on the information provided as well as a complete examination of the submitted “Can Cannon;” our Branch has determined the Can Cannon as received, in and of itself, is not a “firearm” as defined in 18 U.S.C. § 921(a)(3).

Our examination determined that the aforementioned design features, combined with the presence of a permanent and substantial blocking feature located directly in front of the barrel chamber, prevents the chambering of a commercially available .223 Remington caliber ammunition cartridge. FTISB found the submitted sample is designed to only accept a 5.56mm

Mr. James Malarkey

or .223 Remington caliber blank cartridge and the “barrel portion” of the “Can Cannon” incorporating a chamber, is not a firearm barrel.

As a result, if the submitted Can Cannon were assembled to an AR-type firearm receiver incorporating a shoulder stock, this assembly or aggregate of parts would not constitute a “firearm” as defined in the NFA, 26 U.S.C. § 5845(a)(1).

Also, if the submitted device were assembled to an AR-type pistol receiver, this assembly would not constitute the making of an “any other weapon” a firearm as defined in the NFA, 26 U.S.C. § 5845(a)(5). Such an assembly of either of the aforementioned scenarios is lawful.

We caution that these findings for the submitted Can Cannon are based on the sample as submitted. If the design, dimensions, configuration, method of operation, materials used were changed, or physical characteristics were removed or added, this classification would be subject to review and a sample must be submitted to our Branch for a physical examination.

In conclusion, correspondence from our Branch is dependent upon the particular facts, designs characteristics or scenarios presented. Please be aware that although other cases may appear to present identical issues, this correspondence pertains to a particular issue or item. We caution against applying the guidance in this correspondence to other cases because complex legal or technical issues may exist that differentiate this scenario or item from others that only appear to be the same.

To facilitate return of your sample, please provide FTISB with the appropriate FedEx account information or prepaid shipping label within 60 days of receipt of this letter.

We trust the foregoing has been responsive to your request. If we can be of any further assistance, please contact our Branch at any time.

Sincerely yours,



Michael R. Curtis
Chief, Firearms Technology Industry Services Branch

Enclosure