



**U.S. Department of Justice**

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

*Special Agent in Charge*

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*Denver Field Division  
Denver, Colorado 80294  
[www.atf.gov](http://www.atf.gov)*

**September 29, 2009**

**788000: DJR  
5300**

**Mr. Gary Marbut  
P.O. Box 16106  
Missoula, MT 59808**

**Dear Mr. Marbut,**

I have reviewed your letter dated August 21, 2009. In that letter you indicate that you wish to manufacture firearms, firearms accessories, or ammunition consistent with the Montana Firearms Freedom Act (Montana HB 246.) You inquired whether under Federal law it is permissible to manufacture such items for your sole use, and whether you could manufacture such items for sale to others within Montana.

As a first matter, the manufacture of firearms, ammunition, and firearms accessories for your personal use does generally not require licensure under the Federal Gun Control Act of 1968, as amended (GCA). If the firearm, however, is of a type that is defined under 26 U.S.C. Section 5845 (*i.e.*, a National Firearms Act firearm), you will need to file an ATF Form 1, and have it approved by ATF prior to manufacture. I note that in Montana HB 246, the definition of firearm accessory includes sound suppressors. A sound suppressor could come within the definition of a silencer or muffler under the National Firearms Act (NFA), and manufacture of such, even for personal use, would require filing an ATF Form 1, and approval from ATF.

Your other concern is whether it is permissible under Federal law to manufacture firearms, firearms accessories, or ammunition for sale to others within Montana. The manufacture of firearms or ammunition for sale to others within Montana requires licensure by ATF. In order to become a licensed manufacturer you will need to file an ATF Form 7 with ATF's Federal Firearms Licensing Center. I have attached a form with instructions for your use. The manufacture of firearms accessories for sale within Montana, with the exception of sound suppressors, does not require a license from ATF. If you desire to manufacture sound suppressors for sale, please contact our ATF Salt

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Lake City Industry Operations Office at 801-524-7000. That office can assist you in becoming a manufacturer of NFA firearms.

Also, if you are engaging in the business of manufacturing firearms or ammunition for sale to others, and desire ATF to examine a sample of such firearm or ammunition, please contact ATF's Firearms Technology Branch at 304-260-3414, who will arrange to have the firearm or ammunition evaluated at the local ATF office in Montana.

As a final matter, ATF hopes to work with you in obtaining any necessary manufacturing licenses required under the GCA, or registration of firearms covered by the NFA. However, you should be aware that any unlicensed manufacturing of firearms or ammunition for sale or resale, or the manufacture of any NFA weapons, including sound suppressors, without proper registration and payment of tax, is a violation of Federal law and could lead to the forfeiture of such items and potential criminal prosecution under the GCA or NFA. To the extent that the Montana Firearms Freedom Act conflicts with Federal firearms laws and regulations, Federal law supersedes the Act, and all provisions of the GCA and NFA, and their corresponding regulations, continue to apply.

If you have any questions about any of the matters addressed in this letter, please contact Resident Agent in Charge Ken Bray at 406-657-6886.

Sincerely,

A handwritten signature in black ink, appearing to read "R. E. Chase". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Richard E. Chase  
Special Agent in Charge  
Denver Field Division

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COPY

*Gary S. Marbut*

P.O. Box 16106, Missoula, Montana 59808  
406-549-1252 – gary@marbut.com

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August 21, 2009

Mr. Ken Bray  
Resident Agent in Charge, BATFE  
2929 Third Avenue North, Room 528  
Billings, Montana 59101

Dear Mr. Bray,

I wish to manufacture firearms, firearm accessories or ammunition consistent with the Montana Firearms Freedom Act, enacted by the 2009 Montana Legislature, which becomes effective on October 1, 2009.

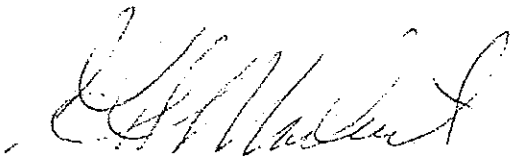
<http://data.opi.mt.gov/bills/2009/billhtml/HB0246.htm>

Can you tell me if it is permissible under federal law to either:

- 1) Manufacture such items solely for my own use in Montana, or
- 2) Manufacture such items for sale to others only within Montana.

Thank you for your timely response.

Sincerely,



Gary Marbut