

117TH CONGRESS
1ST SESSION

S. 1920

To provide procedures for appealing certain Bureau of Alcohol, Tobacco, Firearms and Explosives rulings or determinations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Mr. BRAUN (for himself, Mr. BARRASSO, Mrs. BLACKBURN, Mr. CRAMER, Mr. CRAPO, Ms. LUMMIS, Mr. RISCH, Mr. SCOTT of Florida, Mr. LANKFORD, Mr. HAWLEY, and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide procedures for appealing certain Bureau of Alcohol, Tobacco, Firearms and Explosives rulings or determinations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “ATF Accountability
5 Act of 2021”.

1 **SEC. 2. PROCEDURES FOR APPEALING CERTAIN BUREAU**
2 **OF ALCOHOL, TOBACCO, FIREARMS AND EX-**
3 **PLOSIVES RULINGS OR DETERMINATIONS.**

4 (a) IN GENERAL.—Section 923 of title 18, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “(m)(1) If a licensed manufacturer, licensed im-
8 porter, or licensed dealer transmits to the Attorney Gen-
9 eral a product classification request or a written question
10 regarding any regulatory matter, including the legal status
11 or classification of a product, or a recordkeeping practice,
12 under any law administered, in whole or in part, by the
13 Bureau of Alcohol, Tobacco, Firearms and Explosives, the
14 Attorney General shall, not later than 90 days after re-
15 ceipt of the request or question, make a ruling or deter-
16 mination in writing on the question, and transmit the rul-
17 ing or determination to the licensee.

18 “(2)(A) Within 30 calendar days after receipt of a
19 copy of the ruling or determination, the licensee may ap-
20 peal the ruling or determination (or a cease and desist
21 letter) by filing with any Director of Industry Operations
22 having jurisdiction over a premises of the licensee subject
23 to a license issued to the licensee under this chapter a
24 request for review of the ruling or determination, which
25 shall include a statement of the reasons for the appeal,
26 and the relief requested.

1 “(B) Within 30 calendar days after receipt of the re-
2 quest for the appeal, the Director of Industry Operations
3 shall render a decision on the appeal in writing and trans-
4 mit a copy of the decision to the licensee, at which point
5 the licensee may request a hearing pursuant to paragraph
6 (3).

7 “(3)(A) Within 14 days after receipt from the li-
8 censee of a request for the appeal to be determined on
9 the record after opportunity for a hearing, the Director
10 of Industry Operations shall refer the request to an ad-
11 ministrative law judge who shall—

12 “(i) set a time and place for a hearing on the
13 appeal at a location convenient to the licensee; and

14 “(ii) at least 10 days before the date set for the
15 hearing, serve on the licensee and the Director of In-
16 dustry Operations a notice of the hearing.

17 “(B) The hearing shall be conducted in accordance
18 with the hearing procedures prescribed in subsections (b)
19 through (e) of section 556 and section 557(d) of title 5.

20 “(C) Within a reasonable time, and as expeditiously
21 as possible, after the conclusion of the hearing, the admin-
22 istrative law judge shall—

23 “(i) render a decision on the appeal, which shall
24 consist of—

1 “(I) a brief statement of the issues of fact
2 involved in the proceeding;

3 “(II) the findings and conclusions of the
4 administrative law judge, and the reasons or
5 basis therefor with record references, on all ma-
6 terial issues of fact, law, or discretion presented
7 on the record; and

8 “(III) the decision of the administrative
9 law judge to reverse or affirm the ruling or de-
10 termination involved;

11 “(ii) certify to the complete record of the pro-
12 ceeding;

13 “(iii) forward the complete certified record and
14 a copy of the decision to the Director of Industry
15 Operations;

16 “(iv) serve a copy of the decision on the licensee
17 or counsel for the licensee; and

18 “(v) transmit a copy of the decision to the at-
19 torney representing the United States in the pro-
20 ceeding.

21 “(4) The decision of the administrative law judge or
22 the Director of Industry Operations, or the ruling of an-
23 other officer or employee of the Bureau of Alcohol, To-
24 bacco, Firearms and Explosives, as the case may be, pur-
25 suant to this subsection shall—

1 “(A) constitute final agency action;

2 “(B) be subject to judicial review under chapter

3 7 of title 5; and

4 “(C) be binding on the United States and the
5 licensee.”.

6 (b) APPLICABILITY.—The amendment made by sub-
7 section (a) shall apply with respect to determinations
8 made before, on, or after the date of enactment of this
9 Act.

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