CHRISTOPHER S. MURPHY
CONNECTICUT

SENATE OFFICE BUILDING
HART 136
WASHINGTON, DC 20510
(202) 224-4041

120 HUYSHOPE AVENUE
SUITE 401
HARTFORD, CT 06106
(860) 549-8463

http://murphy.senate.gov

United States Senate
WASHINGTON, DC 20510

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ATF Rulemaking Comments
Mail Stop 6N-518
Office of Regulatory Affairs
Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms and Explosives
United States Department of Justice
99 New York Avenue NE
Washington, DC 20226

Attention:	ATF RIN 1140-AB01
Re:	Notice of Proposed Rulemaking: Definition of "Engaged in the Business" as Dealer in Firearms

To Whom It May Concern:

I submit this comment in strong opposition to a proposed rule issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on its Notice of Proposed Rulemaking (NPRM), RIN 1140-AB0.[1] The NPRM would revise regulations implementing the "engaged in the business" definition under the Bipartisan Safer Communities Act ("BSCA"). In my view, ATF's proposal would narrow the effect of the statute Congress enacted, and ATF should not retreat from the analysis that supported the agency's 2024 final rule (2024 rule). In my view, and as I previously asserted,[2] the 2024 rule reflected Congress's intent when we adopted BSCA. I know because I served as the chief Democratic negotiator of BSCA.

Four years ago — after the horrific shooting in Uvalde — lawmakers came together across party lines to pursue meaningful progress on gun safety. As many Americans know, the result was a bipartisan effort culminating in a legislative framework intended to close loopholes

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[1] United States, Bureau of Alcohol, Tobacco, Firearms and Explosives. "Revising Regulations Defining "Engaged in the Business" as a Dealer in Firearms." *Federal Register*, 6 May 2026. https://www.federalregister.gov/d/2026-08919.

[2] *Murphy submits public comment in support of DOJ rule to expand background checks: U.S. senator Chris Murphy of Connecticut*. [2023-12-07] Murphy Submits Public Comment in Support of DOJ Rule to... (2023, December 7). https://www.murphy.senate.gov/newsroom/press-releases/murphy-submits-public-comment-in-support-of-doj-rule-to-expand-background-checks.

and reduce harm while preserving constitutional rights. The bill was not perfect, and no single piece of legislation could satisfy every preference on either side. But the need for effective, enforceable background checks is grounded in an undeniable public reality: firearms-related deaths remain far too common. According to the Pew Research Center, about 44,000 people died from gun injuries in the United States in 2024, approximately 133 firearm-related deaths every day. In 2021, the figure was even higher, at roughly 48,830. While no single law can be credited with all changes in these outcomes, it is also important to recognize that rates of gun deaths and mass shootings declined significantly after BSCA was passed and began to be implemented. Studies published before the enactment of BSCA found that 80% of firearms purchased for criminal purposes come from sellers without a license, and that 96% of inmates convicted of gun offenses were prohibited from having a firearm when they acquired one from an unlicensed seller.[3]

Prior to BSCA, the background check framework existed for many years, and we were familiar with the basic requirements and the operational realities of firearm checks across the existing background check system in the negotiations. That is precisely why we adopted revisions. BSCA revised the definition of EITB to address the fact that the previous definition was too narrow, inconsistent, excluded some firearms sellers whom Congress believed needed licensure, to enhance law enforcement's ability to trace crime guns through records required to be kept by FFLs, and allowed such sellers to evade background check requirements. Furthermore, Congress legislated with the expectation that ATF would further clarify "engaged in the business" through its rulemaking ability to help ensure that people acting as dealers for profit — rather than incidental sellers — would be subject to the licensing and background-check regime Congress intended.

BSCA was designed to reduce opportunities for evasion, particularly those created when individuals who operate in ways functionally equivalent to commercial dealing avoid the licensing requirements that would otherwise apply.[4] Even the ATF acknowledged this previously. In practical terms, loopholes can exist not only because the law is unclear, but because it allows actors to structure their conduct to fall outside the regulatory definition of a "dealer," even when their behavior resembles commercial activity, and sometimes intentionally so. The 2024 final rule was designed to increase the efficacy of BSCA by enabling enforcement of the new EITB requirements, strengthen the background-check system, and keep firearms out of the hands of individuals who should not have them—exactly as Congress intended. Rather than broadening the authority of ATF beyond Congress's directive, the 2024 rule implemented the statute Congress passed for the express purpose of ensuring that those who function as commercial dealers as defined by BSCA's EITB provision are held to the licensing requirements of the GCA. ATF's role is not to second-guess whether Congress chose the "best" approach to close

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[3] 89 Fed. Reg. at 28986

[4] *Definition of 'Engaged in the Business as a Firearms Dealer*,' 89 Fed. Reg. 28968, 28973, 29,086 (Apr. 19, 2024).

loopholes. If Congress directed the agency to implement a definition or framework in a way that clarifies the statutory terms and strengthens enforcement, the agency must do so faithfully. When ATF proposes revisions that diminish the effect of those statutory changes — especially by undermining the clarity Congress sought — it effectively reopens the loopholes Congress intended to narrow.

Furthermore, agencies are permitted to respond to legal challenges and to refine rules when necessary. But they cannot treat congressional intent as provisional or contingent on the preferences of organized opponents. The agency's statutory obligation is to implement the law, including BSCA, faithfully, and the American public has a right to expect stability and integrity in that implementation. If ATF believes its prior analysis was flawed, it must explain that flaw in legal terms tied to the statute and the evidence, not in terms of political optics. Withdrawing or weakening a rule for reasons rooted in perceived controversy undermines the legitimacy of administrative action. It also sends the wrong message to regulated entities: that compliance is negotiable depending on which interest groups apply pressure rather than on what the statute requires.

The agency should continue implementing BSCA in a way that strengthens background checks, closes loopholes tied to commercial behavior, and preserves the integrity of the GCA licensing framework. ATF's argument that it must withdraw the rule to avoid the perception of bias is an appeal to political expediency rather than to sound regulatory practice. Administrative agencies are entrusted with enforcing the law as written by Congress, regardless of criticism from those who would prefer that the government not implement the statutes Congress passed. When an agency gives way to pressure from interest groups — especially by departing from its own mission — it undermines public confidence and signals weakness in the face of its statutory mandate.[5] Therefore, ATF should keep the full rule as previously written and intended. The legal analysis supporting the 2024 final rule remains persuasive and consistent with congressional direction. For the sake of public safety, regulatory credibility, and faithful implementation of law, I urge ATF to keep the rule in place as previously written and intended.

Sincerely,

Christopher S. Murphy
United States Senator

[5] Eger, C. (2026, June 15). *Federal Court strikes down Biden ATF "engaged in the business" rule*. guns.com. https://www.guns.com/news/2026/06/14/federal-court-strikes-down-biden-atf-engaged-in-the-business-rule.