

118TH CONGRESS
1ST SESSION

H. R. 508

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2023

Mr. CRENSHAW (for himself, Mr. CUELLAR, and Mr. DUNCAN) introduced the following bill; which was 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 2023”.

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 but not limited
11 to the legal status or classification of a product, regulated
12 business practice, or a recordkeeping practice, under any
13 law administered, in whole or in part, by the Bureau of
14 Alcohol, Tobacco, Firearms, and Explosives, the Attorney
15 General shall, not later than 90 days after receipt of the
16 request or question, make a ruling or determination in
17 writing on the question, and transmit the ruling or deter-
18 mination to the licensee.

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

1 shall include a statement of the reasons for the appeal,
2 and the relief requested.

3 “(B) Within 30 calendar days after receipt of the re-
4 quest for the appeal, the Director of Industry Operations
5 shall render a decision on the appeal in writing and trans-
6 mit a copy of the decision to the licensee.

7 “(3)(A) Notwithstanding whether the licensee ap-
8 peals the ruling or determination to the Director of Indus-
9 try Operations, the licensee may, within 75 calendar days
10 after receipt of a copy of the initial ruling or determination
11 or, within 14 days after receipt of the determination by
12 the Director of Industry Operations, which ever is later,
13 request for the appeal to be determined on the record after
14 opportunity for a hearing before an administrative law
15 judge. Upon such request the administrative law judge
16 shall—

17 “(i) set a time and place for a hearing on the
18 appeal at a location convenient to the licensee within
19 90 days from the date of the request; and

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

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

1 “(C) Within 90 days after the conclusion of the hear-
2 ing, the administrative law judge shall—

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

5 “(I) a brief statement of the issues of fact
6 involved in the proceeding;

7 “(II) the findings and conclusions of the
8 administrative law judge, and the reasons or
9 basis therefor with record references, on all ma-
10 terial issues of fact, law, or discretion presented
11 on the record; and

12 “(III) the decision of the administrative
13 law judge to reverse or affirm the ruling or de-
14 termination involved;

15 “(ii) certify to the complete record of the pro-
16 ceeding;

17 “(iii) forward the complete certified record and
18 a copy of the decision to the Director of Industry
19 Operations;

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

22 “(v) transmit a copy of the decision to the at-
23 torney representing the United States in the pro-
24 ceeding.

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

6 “(A) constitute final agency action;

7 “(B) be subject to judicial review under chapter
8 7 of title 5; and

9 “(C) be binding on the United States and the
10 licensee.

11 “(5) The submission of an administrative appeal pur-
12 suant to paragraph (2) or (3) shall postpone the effective
13 date of the ruling or determination until the administra-
14 tive appeal and any subsequent judicial process is com-
15 plete. The effect shall be as if the ruling or determination
16 had not issued until such process is complete.”.

17 (b) APPLICABILITY.—The amendment made by sub-
18 section (a) shall apply with respect to determinations
19 made before, on, or after the date of enactment of this
20 Act.

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