

118TH CONGRESS
1ST SESSION

S. 3529

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

DECEMBER 14, 2023

Mr. BRAUN (for himself, Mr. BARRASSO, Mr. CRAMER, Mr. CRAPO, Mr. DAINES, Mr. HAWLEY, Mrs. HYDE-SMITH, Mr. LANKFORD, Ms. LUMMIS, Mr. MARSHALL, Mr. RISCH, Mr. SCOTT of Florida, Mr. LEE, Mr. HOEVEN, and Mr. MULLIN) 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 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) Not later than 90 days after the Attorney
8 General receives from a licensed manufacturer, licensed
9 importer, or licensed dealer a product classification re-
10 quest or a written question regarding any regulatory mat-
11 ter, including the legal status or classification of a prod-
12 uct, or a recordkeeping practice under any law adminis-
13 tered, in whole or in part, by the Bureau of Alcohol, To-
14 bacco, Firearms and Explosives, the Attorney General
15 shall make a ruling or determination in writing on the re-
16 quest or question, and transmit the ruling or determina-
17 tion to the licensee.

18 “(2)(A) Not later than 30 days after receipt of a copy
19 of a ruling or determination under paragraph (1), a li-
20 censee may appeal the ruling or determination (or a cease
21 and desist letter) by filing with any Director of Industry
22 Operations having jurisdiction over a premises of the li-
23 censee subject to a license issued to the licensee under this
24 chapter a request for review of the ruling or determina-
25 tion, which shall include a statement of the reasons for
26 the appeal and the relief requested.

1 “(B) Not later than 30 days after receipt of an ap-
2 peal under subparagraph (A), a Director of Industry Op-
3 erations shall render a decision on the appeal in writing
4 and transmit a copy of the decision to the licensee, at
5 which point the licensee may request a hearing pursuant
6 to paragraph (3).

7 “(3)(A) Not later than 14 days after receipt from a
8 licensee of a request under paragraph (2)(B) for an appeal
9 to be determined on the record after opportunity for a
10 hearing, a Director of Industry Operations shall refer the
11 request to an administrative 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) not later than 10 days before the date set
15 for the hearing, serve on the licensee and the Direc-
16 tor of Industry Operations a notice of the hearing.

17 “(B) A hearing under subparagraph (A) shall be con-
18 ducted in accordance with the hearing procedures pre-
19 scribed in subsections (b) through (e) of section 556 and
20 section 557(d) of title 5.

21 “(C) Within a reasonable time, and as expeditiously
22 as possible, after the conclusion of a hearing under sub-
23 paragraph (A), the administrative law judge shall—

24 “(i) render a decision on the appeal, which shall
25 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 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.—

7 (1) IN GENERAL.—The amendment made by
8 subsection (a) shall apply with respect to rulings and
9 determinations made before, on, or after the date of
10 enactment of this Act.

11 (2) DEADLINE FOR APPEAL OF PRIOR RULINGS
12 AND DETERMINATIONS.—For purposes of a ruling or
13 determination made before the date of enactment of
14 this Act, a licensee may appeal the ruling or deter-
15 mination (or a cease and desist letter) in the manner
16 described in paragraph (2)(A) of section 923(m) of
17 title 18, United States Code, as added by subsection
18 (a), on or before the date that is 1 year after the
19 date of enactment of this Act.

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