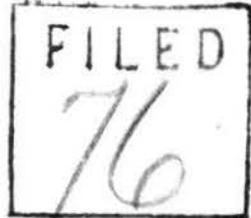


**WEAPONS:** Owners of weapons are not required to register possession by the State of Missouri as is required under the National Fire Arms Act.

September 2, 1938



Mr. Floyd Roberts  
Circuit Clerk  
Columbia, Missouri

Dear Sir:

We are in receipt of your letter of September 1, 1938, requesting an opinion of this Department, as follows:

"We have numerous inquiries in regard to the matter of the registrations of firearms, in fact people are sent to my office by the Highway Patrol, Sheriff and Prosecuting Attorney and others under the assumption that there is a law requiring such firearms to be registered in the office of the Circuit Clerk.

Sections 4432 to 4436 provide for a permit to be issued by such Clerk for the purchase, trade, etc., of such weapons, but this does not seem to include registration; this must be Federal Statute. These inquiries are from people who already own the weapons and merely want to register them to comply with the law.

Please give me any information you may have in regard to this law. Perhaps I should obtain a book for this purpose. I am enclosing a form used in this office for issuing fire arms permit on the recommendation

of the Sheriff, and of course we register these in a bound book, but this does not seem to me to be the answer to the problem.

I also have a case today where a revolver arrived by express and the express company will not release same to the consignee without a permit from the Circuit Clerk. I suppose the regular permit as enclosed will take care of this situation.

Section 4433 R.S. Missouri 1929, in part reads as follows:

"No person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein, for the purposes of commerce, shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving such weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering such weapon, within thirty days after the issuance thereof, a permit authorizing such person to acquire such weapon. Such permit shall be issued by the circuit clerk of the county in which the applicant for a permit resides in this state, if the sheriff be satisfied that the person applying for the same is of good moral character and of lawful age, and that the granting of the same will not endanger the public safety."

As stated in your request the express company is lawfully requiring a permit such as attached to your request. The express company is complying with that part of Section 4433 which prevents delivery without surrender of the permit described in said section. We find no law to the effect that any firearms of any description should be registered in this state, but Section 1132, Title 26, Chapter 15(a), United States Code Annotated, enacted June 26, 1934, defines "firearm" as follows:

"The term 'firearm' means a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition."

This definition was amended April 10, 1936, by Section 1132, to read as follows:

"The term 'firearm' means a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition, but does not include any rifle which is within the foregoing provisions solely by reason of the length of its barrel if the caliber of such rifle is .22 or smaller and if its barrel is sixteen inches or more in length."

Section 1132d, Title 26, Chapter 15a, U.S.C.A.  
reads as follows:

"Within sixty days after the thirtieth day after June 26, 1934, every person possessing a firearm shall register, with the collector of the district in which he resides, the number or other mark identifying such firearm, together with his name, address, place where such firearm is usually kept, and place of business or employment, and, if such person is other than a natural person, the name and home address of an executive officer thereof: Provided, that no person shall be required to register under this section with respect to any firearm acquired after the thirtieth day after June 26, 1934, and in conformity with the provisions of sections 1132 to 1132q.

Whenever on trial for a violation of section 1132e the defendant is shown to have or to have had possession of such firearm at any time after such period of sixty days without having registered as required by this section, such possession shall create a presumption that such firearm came into the possession of the defendant subsequent to the thirtieth day after June 26, 1934, but this presumption shall not be conclusive."

The word "collector" as set out in Section 1132d means "collector of internal revenue" in the district which the applicant or registrant resides.

September 2, 1938

As you notice most of Section 1132d is now obsolete for the reason that the time for complying with said paragraph (a) was limited to sixty days after the thirtieth day after June 26, 1934. No registration would be needed at this time if the owner since that time had complied with the manner of purchase of firearms as set out in Sections 1132 to 1132q of Chapter 15a, Title 26, U.S.C.A.

The punishment for the violation of any of the sections above set out, to-wit, 1132 to 1132q, is as follows:

"Any person who violates or fails to comply with any of the requirements of sections 1132 to 1132q shall, upon conviction, be fined not more than \$2,000 or be imprisoned for not more than five years, or both, in the discretion of the court."

#### CONCLUSION

In view of the above research it is the opinion of this Department that the State of Missouri does not require the registration of the possession of firearms, but that said registration is covered by the federal law and may be cited as the "National Fire Arms Act". It is further the opinion of this Department that the permit attached to your request is sufficient authority for the express company to release a revolver to the consignee in accordance with Section 4433 R.S. Missouri 1929.

Respectfully submitted,

APPROVED:

W. J. BURKE,  
Assistant Attorney General

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J. E. TAYLOR  
(Acting) Attorney General

WJB:MM