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PLEASE REPLY TO:

To: Chiefs of Police, Sheriffs, and Law Enforcement Command Staff
From: Brian Kramer, State Attorney, Eighth Judicial Circuit
Date: October 11, 2026

Re: Current Legal Status of Short-Barreled Rifles, Short-Barreled Shotguns, and Suppressors

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Recent federal developments have materially changed the legal status of short-barreled rifles, short-barreled shotguns, and firearm suppressors. This letter is intended to provide the State Attorney's Office's position concerning the effect of those developments on Florida law and, particularly, on arrests, searches, and seizures based upon the possession of these items.

The change originates with Congress's decision to reduce the National Firearms Act making and transfer taxes to zero for short-barreled rifles, short-barreled shotguns, silencers, and certain other weapons. In *Silencer Shop Foundation v. Bureau of Alcohol, Tobacco, Firearms and Explosives*, the United States District Court for the Northern District of Texas held that the NFA regulatory provisions challenged in that case could no longer constitutionally be sustained under Congress's taxing power once those firearms ceased generating tax revenue. The court therefore enjoined enforcement of the challenged registration, approval, and related provisions as unconstitutional because they exceeded Congress's enumerated powers.

The Department of Justice elected not to appeal that ruling. On October 9, 2026, ATF issued guidance extending the practical effect of the ruling beyond the persons formally protected by the court's injunction. ATF announced that it will cease enforcement nationwide of the requirements to obtain prior approval to make or transfer a short-barreled rifle, short-barreled shotgun, or suppressor; the requirement to register those items in the National Firearms Registration and Transfer Record; and the federal prohibitions against making, receiving,

transferring, or possessing those items merely because they are unregistered. ATF has made clear that this nationwide policy is intended to avoid the inequity that would result from applying the court's ruling only to the parties technically covered by the injunction.

Florida law must be read in light of that federal change. Section 790.221, Florida Statutes, prohibits possession of a short-barreled rifle or short-barreled shotgun, but subsection (3) expressly excepts firearms that are "lawfully owned and possessed under provisions of federal law." Florida law does not independently require an ATF Form 1, Form 4, tax stamp, or registration in the federal registry. Historically, federal registration was the mechanism by which lawful federal possession was established, but the Florida Legislature did not make federal registration itself an element of lawful possession.

The Florida Supreme Court's decision in *Rinzler v. Carson* is consistent with this conclusion. There, the Court recognized that § 790.221 does not prohibit a firearm that is lawfully owned and possessed under federal law and further emphasized that ambiguity in this penal statute must be resolved in favor of the person against whom criminal liability is asserted. Following *Silencer Shop*, the Department of Justice's decision not to appeal, and ATF's nationwide guidance, the absence of federal registration alone no longer establishes that an SBR or SBS is unlawfully possessed under federal law and therefore does not, standing alone, establish a violation of § 790.221. Suppressors present an even simpler issue under Florida law. Section 790.221 does not independently prohibit suppressor possession. Because ATF no longer requires or enforces NFA registration and prior approval for covered suppressors, the absence of an NFA tax stamp or registration does not make possession of a suppressor unlawful under Florida law. (I haver addressed this in a previous memo.)

These changes also affect probable cause and the constitutional basis for searches and seizures. The mere possession of an SBR, SBS, or suppressor, or the inability of the possessor to produce an ATF Form 1, Form 4, tax stamp, or proof of federal registration, should not by itself be treated as evidence that a crime is being committed. Those facts standing alone should not be relied upon to establish reasonable suspicion or probable cause for a detention, search, seizure, arrest, or search warrant. Likewise, the mere discovery of one of these items during an otherwise lawful search does not automatically justify seizure under the plain-view doctrine, because its incriminating character is no longer immediately apparent merely from its configuration or lack

of federal registration. *Kilburn v. State*, 297 So. 3d 671, 675 (Fla. 1st DCA 2020) ("A potentially lawful activity cannot be the sole basis for a detention. If this were allowed, the Fourth Amendment would be eviscerated.")

Officers should instead determine whether there are additional facts supporting an independent violation of law. An SBR, SBS, or suppressor may still properly be seized or support enforcement action if, for example, it is stolen, has an unlawfully altered or obliterated serial number, is possessed by a person prohibited from possessing firearms, is being used in connection with another criminal offense, was illegally imported, or is otherwise independently unlawful. Officers should also be careful to distinguish short-barreled rifles and shotguns from machine guns and destructive devices, which remain fully subject to the NFA and are not covered by ATF's new non-enforcement policy.

Accordingly, officers should no longer rely on the historic assumption that a short barrel or suppressor, combined with the absence of a federal tax stamp or registration paperwork, establishes unlawful possession. The current federal framework does not support that conclusion, and Florida law does not impose an independent registration requirement. Where uncertainty exists regarding whether a particular weapon is a machine gun, destructive device, illegally imported firearm, or otherwise independently prohibited, officers should contact the State Attorney's Office before taking enforcement action when circumstances permit.

This guidance concerns only the legal status of SBRs, SBSs, and suppressors based upon their lack of NFA registration. It does not affect any other state or federal firearm prohibition applicable to a particular person, weapon, location, or criminal use.