

United States Senate

WASHINGTON, DC 20510

August 4, 2026

The Honorable Robert Cekada
Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue NE
Washington, DC 20226

RE: RIN 1140-AA73, Clarifying Interstate Transportation of Firearms Under the Gun Control Act

Dear Director Cekada:

As members of Congress, we are committed to protecting the safety of our constituents and the Nation. For this reason, we submit this comment opposing the Bureau of Alcohol, Tobacco, Firearms and Explosives' proposed rule, Clarifying Interstate Transportation of Firearms Under the Gun Control Act ("Proposed Rule" or "Rule").¹

Congress enacted 18 U.S.C. § 926A to provide qualifying people with a defined safe harbor for the interstate transportation of firearms. The statute offers limited legal protection to a person transporting an unloaded firearm between places where that person may lawfully possess and carry it, provided that both the firearm and ammunition are not readily or directly accessible at any point during transportation.² ATF's Proposed Rule, however, would dramatically expand this protection to include overnight lodging, food and fuel stops, vehicle maintenance, medical treatment, transfers between modes of transportation, passenger pickups and drop-offs, and "any other activity incidental to the original transportation." It would also extend the safe harbor to a nonexclusive list of attachments, accessories, and other items, including: magazines, feed strips, stabilizing braces, weapon-mounted lights, optics, slings, holsters, and firearm cleaning kits.³ As a whole, the Proposed Rule would transform § 926A into a wider federal preemption regime than Congress ever intended, and, in doing so, would create serious risks to public safety both on its own and as it vitiates critical state and local gun violence prevention laws.

For the reasons below, ATF should withdraw the Proposed Rule in its entirety.

I. ATF's Limited Rulemaking Authority Does Not Permit the Agency to Alter or Enlarge § 926A.

ATF is acting outside of its regulatory authority, and this expansion disregards federal law by following repeated congressional consideration, but not enactment, of similar changes to §

¹ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

² See 18 U.S.C. § 926A (2024).

³ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,442, 24,445, 24,448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

926A.⁴ ATF’s authority to regulate interstate transportation of firearms derives from 18 U.S.C. § 926(a), which authorizes the Attorney General to prescribe “only such rules and regulations as are necessary to carry out” Chapter 44 of Title 18. The Attorney General has delegated responsibility for administering and enforcing the Gun Control Act to ATF.⁵

Section 926(a) authorizes ATF to implement Congress’s enactments, including Section 926A. ATF is not licensed to revise the Gun Control Act, create new substantive protections, or expand the circumstances in which federal law displaces state criminal law. Congress amended § 926(a) through the Firearm Owners’ Protection Act of 1986.⁶ Before the amendment, the provision authorized regulations that the responsible official “deem[ed] reasonably necessary” to carry out Chapter 44. Congress later revised the statute to authorize only rules and regulations necessary to carry out Chapter 44. The amended text removes the official’s discretionary “deems” formulation and adds the limiting word “only.”⁷ Accordingly, ATF’s authority is now confined to regulations necessary to implement the statutory protections Congress enacted. ATF therefore must demonstrate that its Rule carries out the protections Congress enacted rather than enlarging them. The Rule crosses this line, deeming an open-ended range of interruptions and ancillary activities part of the protected “transport.” More significantly, it creates federal protection for numerous attachments and accessories that § 926A does not expressly identify.⁸

The Supreme Court’s line of cases on delegated authority reinforces the need to ground agency authority in the law Congress enacted. In *FDA v. Brown & Williamson Tobacco Corp.*, the Court held that an agency could not claim authority that Congress had repeatedly considered but declined to confer through legislation.⁹ Congress has repeatedly considered amendments to § 926A that would have expanded the interstate transportation safe harbor to cover many of the same activities and categories of property protected by the Proposed Rule, but never enacted them.¹⁰ Congress’s decision not to amend the statute is evidence that the existing statute does not authorize those expansions contained in the Proposed Rule. And while ATF may clarify genuine ambiguities within § 926A’s existing framework, it may not use those ambiguities to extend the safe harbor to property Congress did not explicitly identify. The Proposed Rule’s expansive treatment of firearm attachments and accessories most clearly illustrates that regulatory overreach.

II. The Rule Ignores that Congress Repeatedly Considered, but Did Not Enact, Materially Similar Expansions of § 926A.

⁴ See *Lawful Interstate Transportation of Firearms Act*, S. 618, 115th Cong. (2017); H.R. 358, 115th Cong. (2017); *Lawful Interstate Transportation of Firearms Act*, S. 3139, 116th Cong. (2019); *Lawful Interstate Transportation of Firearms Act*, H.R. 5935, 116th Cong. (2020); *Lawful Interstate Transportation of Firearms Act*, S. 525, 117th Cong. (2021); *Lawful Interstate Transportation of Firearms Act*, H.R. 1680, 117th Cong. (2021).

⁵ 18 U.S.C. § 926(a) (2024).

⁶ Firearm Owners’ Protection Act, Pub. L. No. 99-308, § 106(1), 100 Stat. 449, 459 (1986).

⁷ Firearm Owners’ Protection Act, Pub. L. No. 99-308, § 106(1), 100 Stat. 449, 459 (1986).

⁸ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478); 18 U.S.C. § 926A (2024).

⁹ *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 120 (2000).

¹⁰ See *Lawful Interstate Transportation of Firearms Act*, S. 618, 115th Cong. (2017); H.R. 358, 115th Cong. (2017); *Lawful Interstate Transportation of Firearms Act*, S. 3139, 116th Cong. (2019); *Lawful Interstate Transportation of Firearms Act*, H.R. 5935, 116th Cong. (2020); *Lawful Interstate Transportation of Firearms Act*, S. 525, 117th Cong. (2021); *Lawful Interstate Transportation of Firearms Act*, H.R. 1680, 117th Cong. (2021).

The Proposed Rule is especially concerning because it disregards that Congress has repeatedly considered, but chosen not to enact, legislation that would have amended § 926A to achieve many of the same objectives ATF now seeks through regulation.¹¹

The Lawful Interstate Transportation of Firearms Act was introduced in three consecutive Congresses: S. 618 and H.R. 358 in the 115th Congress; S. 3139 and H.R. 5935 in the 116th Congress; and S. 525 and H.R. 1680 in the 117th Congress.¹² These bills would have expressly protected the interstate transportation of ammunition, detachable magazines, and ammunition-feeding devices. They also would have defined “transport” to include temporary lodging, food and fuel stops, vehicle maintenance, medical treatment, emergencies, and other activities incidental to transportation. These provisions substantially overlap with what ATF proposes here.

Yet, none of these bills passed and became law. Notably, during the 115th Congress, when Republicans controlled the House, Senate, and presidency, Congress still did not enact the expansion. These legislative efforts would not have occurred if § 926A already provided the protections they sought. The bills’ own sponsors and endorsers made that point explicitly. Senator Shelley Moore Capito, a cosponsor of the 117th Congress version, explained that the legislation was needed to “protect the rights of law-abiding citizens to keep and bear arms” while traveling.¹³ Gun Owners of America, which formally endorsed the House companion bill, explained that the legislation was necessary because “[c]urrent law in many anti-gun states could result in gun owners being arrested for fundamental travel-related activity such as stopping for gas or medical treatment while transporting firearms in compliance with” existing federal law — activities the bill’s supporters understood § 926A did not yet clearly protect.¹⁴ ATF’s current position, that § 926A already protects these same activities and properties without any amendment, is impossible to reconcile with the considered judgment of the members of Congress and organizations who spent three consecutive Congresses trying to amend the law for that purpose.

It is true that failed legislation alone does not establish statutory meaning. But Congress did not merely fail to address a general policy question here — it contemplated and rejected specific amendments that would have protected the very activities and categories of property covered by the Proposed Rule. That history, combined with § 926A’s text and § 926(a)’s limited delegation, affirms that ATF is acting improperly by making a legislative choice rather than carrying out one

¹¹ See *Lawful Interstate Transportation of Firearms Act*, S. 618, 115th Cong. (2017); H.R. 358, 115th Cong. (2017); *Lawful Interstate Transportation of Firearms Act*, S. 3139, 116th Cong. (2019); *Lawful Interstate Transportation of Firearms Act*, H.R. 5935, 116th Cong. (2020); *Lawful Interstate Transportation of Firearms Act*, S. 525, 117th Cong. (2021); *Lawful Interstate Transportation of Firearms Act*, H.R. 1680, 117th Cong. (2021).

¹² See *Lawful Interstate Transportation of Firearms Act*, S. 618, 115th Cong. (2017); H.R. 358, 115th Cong. (2017); *Lawful Interstate Transportation of Firearms Act*, S. 3139, 116th Cong. (2019); *Lawful Interstate Transportation of Firearms Act*, H.R. 5935, 116th Cong. (2020); *Lawful Interstate Transportation of Firearms Act*, S. 525, 117th Cong. (2021); *Lawful Interstate Transportation of Firearms Act*, H.R. 1680, 117th Cong. (2021).

¹³ Press Release, Sen. Shelley Moore Capito, *Capito Introduces Legislation to Make Traveling with Firearms Easier for Legal Gun Owners* (2021), <https://www.capito.senate.gov/news/in-the-news/sen-capito-introduces-legislation-to-make-traveling-with-firearms-easier-for-legal-gun-owners>.

¹⁴ Press Release, Gun Owners of Am., *GOA Backs Lawful Interstate Transportation of Firearms Act* (Feb. 21, 2020), <https://www.gunowners.org/goa-backs-lawful-interstate-transportation-of-firearms-act/>.

Congress already made.¹⁵ ATF may not treat Congress's failure to enact the requested expansion as permission to accomplish it through regulation.

III. The Rule's Accessory Provision Is Overbroad.

The Rule's treatment of firearm attachments and accessories presents its most serious substantive defect. Section 926A creates an entitlement to transport a "firearm" and expressly refers to "ammunition" when setting the conditions for transportation.¹⁶ It does not establish a general safe harbor for "attachments," "accessories," or "other instruments." The Proposed Rule, however, provides protection for a broad, nonexclusive list that includes scopes, sights, optics, stocks, grips, stabilizing braces, mounts, weapon-mounted lights, magazines, clips, feed strips, ammunition-feeding devices, holsters, slings, and firearm cleaning kits.¹⁷

The Rule lacks a limiting principle and improperly extends federal preemption equally to items such as scopes, slings, cleaning kits, weapon-mounted lights, stabilizing braces, and thirty-round magazines.¹⁸ ATF attempts to justify this by claiming that § 926A would not fully protect the transportation of firearms if state and local governments could indirectly prohibit their transportation through particular jurisdictions by regulating constituent parts and accessories, arguing that it would be strange to protect a firearm and ammunition while excluding the magazine that feeds the ammunition into the firearm.¹⁹ Even if that reasoning supports federal preemption protection for some firearm accessories, ATF cannot justify the even application of this to the broad nonexclusive list. Treating these accessories as functionally equivalent is unjustified.

For example, a scope does not pose the same function or public safety risks as a large-capacity magazine. Illinois regulated large-capacity magazines due to their ability to allow more rounds to be fired before reloading, not because they are interchangeable with maintenance or handling accessories. The Seventh Circuit also evaluated thirty-round magazines based on their specific capabilities and use, not as part of a broad category of firearm-related products.²⁰ As such, ATF's attempt to provide equal federal preemption to the nonexhaustive list of accessories and attachments is unfounded.

A. "Firearm Cleaning Kits" Present a Specific Solvent-Trap Risk.

The Rule's express protection of "firearm cleaning kits" raises an additional safety concern. Solvent traps are legitimate firearm cleaning products that capture cleaning fluid as it passes through a firearm's barrel. However, products marketed as solvent traps or cleaning devices may also be designed to function as silencers or be readily converted into silencers through drilling or

¹⁵ See 18 U.S.C. §§ 926(a), 926A (2024); 91 Fed. Reg. 24,441.

¹⁶ 18 U.S.C. § 926A (2024).

¹⁷ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

¹⁸ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

¹⁹ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,445 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

²⁰ *Barnett v. Raoul*, Nos. 24-3060, 24-3061, 24-3062 & 24-3063, 2026 WL 1982951, at *16 (7th Cir. July 9, 2026).

modification.²¹ The Department of Justice has prosecuted individuals for possessing devices marketed as solvent traps that were designed to function as silencers or were used to construct unregistered silencers.²²

The Rule requires that an accessory be in compliance with federal law and lawful at the journey's origin and destination.²³ However, this does not resolve enforcement challenges. A device may be labeled as a cleaning product but still meet the federal definition of a silencer based on its design or intended function. Including "firearm cleaning kits" in the protected list could hinder law enforcement's efforts, particularly in states like Illinois that ban silencers,²⁴ to regulate the illicit use of solvent traps as silencers.

B. The Rule Fails to Preserve Investigation of Suspected Trafficking.

The Rule fails to appropriately account for firearm trafficking schemes and enforcement as it does not distinguish between transporting a single firearm with personal accessories and moving unusually large quantities of firearms or magazines.²⁵ Carrying one or two unloaded firearm(s) for hunting or sport is not equivalent to transporting dozens of firearms or hundreds of magazines through a state where they are unlawful.

Section 926A applies only to transportation undertaken "for any lawful purpose."²⁶ ATF should make clear that the safe harbor cannot shield trafficking or commercial distribution merely because a transporter identifies lawful endpoints and characterizes an intermediate stop as incidental.

Instead, ATF failed to adopt an objective, rebuttable presumption that transportation of quantities far beyond ordinary personal use falls outside the safe harbor unless credible evidence of a lawful purpose exists. The Rule also failed to preserve officers' ability to consider quantity, packaging, route, documentation, repeated travel, and other objective indicators when assessing lawful purpose. On the contrary, this Proposed Rule will provide additional legal cover for gun traffickers, allowing them to more easily engage in interstate trafficking.

IV. The Rule Would Displace State Law Without Adequate Consultation.

The Rule's wide breadth is especially concerning to Illinois and other states pursuing legislative efforts to curb gun violence. In January 2023, Illinois enacted the Protect Illinois Communities Act ("PICA"),²⁷ after a gunman used a semiautomatic rifle and large-capacity magazines to kill seven people and wound dozens more during the Independence Day parade in Highland Park,

²¹ *What Is a Solvent Trap?*, Silencer Shop (Apr. 1, 2020), <https://www.silencershop.com/blog/what-is-a-solvent-trap>.

²² Press Release, U.S. Att'y's Off. for the E. Dist. of Va., *Virginia Man Convicted of Possessing Unregistered Silencers* (Jan. 19, 2023), <https://www.justice.gov/usao-edva/pr/virginia-man-convicted-possessing-unregistered-silencers>.

²³ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,444 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

²⁴ 720 Ill. Comp. Stat. 5/24-1(a)(6).

²⁵ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,445 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (proposing protection for "magazines, clips, feed strips, [and] any other ammunition feeding device" without specifying any capacity or quantity limit).

²⁶ 18 U.S.C. § 926A (2024).

²⁷ Protect Illinois Communities Act, Pub. Act 102-1116, §§ 1-999 (Ill. 2023).

Illinois.²⁸ PICA restricts assault weapons, assault-weapon attachments, and large-capacity ammunition-feeding devices, including magazines capable of accepting more than ten rounds for long guns or more than fifteen rounds for handguns.²⁹

On July 9, 2026, the United States Court of Appeals for the Seventh Circuit upheld PICA's restrictions on AR-15 rifles and thirty-round magazines. The court concluded that the record showed that AR-15s equipped with thirty-round magazines pose a particular danger and held that Illinois's restrictions are consistent with the principles underlying the Nation's historical tradition of firearm regulation. The court further recognized that the decision whether to adopt those restrictions is entrusted to elected representatives.³⁰

The Proposed Rule undermines this legislative and judicial judgment by granting federal safe-harbor protection to large-capacity magazines and other restricted accessories transported through Illinois.³¹ The Proposed Rule would allow a person to transport a thirty-round magazine through Illinois and stop for food, fuel, vehicle maintenance, or other incidental activities, so long as the magazine is lawful at the origin and destination and is transported with a firearm as prescribed — notwithstanding that Illinois has not generally authorized unrestricted possession of such devices by persons merely passing through the state.³²

ATF acknowledges that some States have more restrictive laws that may be affected and that it “does not have sufficient information to assess the scope of state regulation or the costs on states that could be impacted.”³³ Nevertheless, ATF concludes that its preemption is limited to the minimum level necessary to accomplish § 926A's objectives. However, ATF cannot reliably determine that it has selected the minimum necessary degree of preemption while acknowledging that it lacks sufficient information to assess the relevant state regulatory landscape and resulting costs.³⁴

The consultation described in the preamble of the Proposed Rule is inadequate. ATF notes that some state officials were informed of the proposal at an FBI meeting, but the only feedback described related to overnight rest breaks. The preamble describes no meaningful consultation with states on magazine restrictions, accessory preemption, solvent traps, trafficking, or the operational burdens on state and local law enforcement.³⁵

²⁸ Gregory Krieg, *Shooting Reported at Fourth of July Parade in Chicago Suburb of Highland Park*, CNN (July 5, 2022), <https://www.cnn.com/2022/07/05/us/highland-park-illinois-shooting-july-fourth-parade-tuesday-intl-hnk>.

²⁹ 720 Ill. Comp. Stat. 5/24-1.9(a)(1), (a)(3), (b)-(c) (2024); *id.* 5/24-1.10(a)-(c).

³⁰ *Barnett v. Raoul*, Nos. 24-3060, 24-3061, 24-3062 & 24-3063, 2026 WL 1982951, at *1 (7th Cir. July 9, 2026).

³¹ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478); 720 Ill. Comp. Stat. 5/24-1.9, 5/24-1.10 (2024).

³² 720 Ill. Comp. Stat. 5/24-1.10(a)-(c) (2024); 91 Fed. Reg. at 24,445.

³³ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,446 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

³⁴ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,445-46 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

³⁵ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,446 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (describing notice to some state officials and identifying only one comment concerning overnight rest breaks).

ATF failed to adequately and appropriately consult directly with Illinois and other affected States before displacing their laws. That consultation should have included state attorneys general, state police agencies, local prosecutors, and municipal law enforcement organizations.

V. The Rule Does Not Adequately Address Burdens on Law Enforcement or Provide Clear Standards for Responsible Owners.

The Proposed Rule will have significant consequences for law enforcement and lawful firearm owners.³⁶ If implemented, officers encountering a firearm, magazine, or accessory that appears to violate state law must conduct detailed factual and legal analysis to determine whether the transportation is protected. These determinations are complex and may require roadside investigations, consultation with prosecutors, and legal analysis of state laws. The Rule does not adequately consider the time, training, or resources required to do this, nor how this process will interfere with the commencement of other law enforcement duties.³⁷

The Rule claims to provide clarity but relies on open-ended standards, such as protecting “reasonably necessary activities incidental to interstate travel,” “interruptions that are reasonable in the circumstances,” and “any other activity incidental to the original transportation.”³⁸ The preamble mentions that an “extended break” unrelated to travel would end protection but does not define this boundary.³⁹ ATF also fails to define “locked container” and “readily accessible for immediate use.”⁴⁰ The Rule does not clarify whether a keyed, combination, biometric, or luggage lock qualifies, whether a hotel safe is sufficient, or whether a biometric safe immediately accessible to its owner makes the firearm “readily accessible.”

As a result, responsible firearm owners may remain uncertain about the meaning of these ambiguous phrases in practice, and errors in their judgement. Given that errors could lead to arrest, prosecution, or firearm seizure, these are significant drafting concerns. All of this runs contrary to and undermines ATF’s claimed intent of this Proposed Rule.

VI. Conclusion

The Rule exceeds ATF’s implementation authority, expands the reach of § 926A, and treats distinct firearm accessories as if they present identical legal and public safety issues. The Rule risks displacing legislation such as Illinois’s Protect Illinois Communities Act without adequate assessment of state firearm laws, public safety impacts, or law enforcement burdens. The Rule also introduces solvent-trap and trafficking risks while leaving responsible firearm owners to interpret vague standards. These are not defects that minor revisions can fix. We urge ATF to withdraw the Proposed Rule in its entirety.

³⁶ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,444-46, 24,447-48 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

³⁷ See generally *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441-48 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

³⁸ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,445-48 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

³⁹ *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,445 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

⁴⁰ See *Clarifying Interstate Transportation of Firearms Under the Gun Control Act*, 91 Fed. Reg. 24,441, 24,448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478).

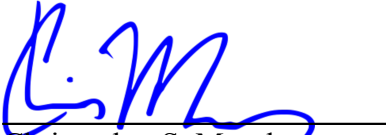
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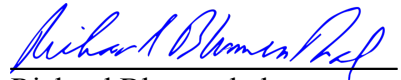
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United States Senator



Adam B. Schiff
United States Senator



Christopher S. Murphy
United States Senator



Richard Blumenthal
United States Senator