

## § 478.53

duplicate, not less than 30 days prior to such removal with the Chief, National Licensing Center. The ATF Form 5300.38 shall be completed in accordance with the instructions on the form. The application must be executed under the penalties of perjury and penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the licensee's original license. The Chief, National Licensing Center, may, in writing, require the applicant for an amended license to also file completed ATF Form 7 or ATF Form 7CR, or portions thereof, in the manner required by § 478.44.

(b) Upon receipt of a properly executed application for an amended license, the Chief, National Licensing Center, shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified at the new location, issue the amended license, and return it to the applicant. The license shall be valid for the remainder of the term of the original license. The Chief, National Licensing Center, shall, if the applicant is not qualified, refer the application for amended license to the Director of Industry Operations for denial in accordance with § 478.71.

(Approved by the Office of Management and Budget under control number 1512-0525)

[T.D. ATF-363, 60 FR 17453, Apr. 6, 1995]

### § 478.53 Change in trade name.

A licensee continuing to conduct business at the location shown on his license is not required to obtain a new license by reason of a mere change in trade name under which he conducts his business: *Provided*, That such licensee furnishes his license for endorsement of such change to the Chief, National Licensing Center within 30 days from the date the licensee begins his business under the new trade name.

[33 FR 18555, Dec. 14, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55842, Sept. 28, 1979; T.D. ATF-290, 54 FR 53055, Dec. 27, 1989]

### § 478.54 Change of control.

In the case of a corporation or association holding a license under this part, if actual or legal control of the corporation or association changes, di-

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rectly or indirectly, whether by reason of change in stock ownership or control (in the licensed corporation or in any other corporation), by operations of law, or in any other manner, the licensee shall, within 30 days of such change, give written notification thereof, executed under the penalties of perjury, to the Chief, National Licensing Center. Upon expiration of the license, the corporation or association must file a Form 7 (Firearms) as required by § 478.44.

[33 FR 18555, Dec. 14, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

### § 478.55 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the business under the license of the partnership. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall obtain a license in his own name from the date of acquisition, as provided in § 478.44. The rule set forth in this section shall also apply where there is more than one surviving partner.

### § 478.56 Right of succession by certain persons.

(a) Certain persons other than the licensee may secure the right to carry on the same firearms or ammunition business at the same address shown on, and for the remainder of the term of, a current license. Such persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right provided by this section, the person or persons continuing the business shall furnish the license for that business for

endorsement of such succession to the Chief, National Licensing Center, within 30 days from the date on which the successor begins to carry on the business.

[33 FR 18555, Dec. 14, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55842, Sept. 28, 1979; T.D. ATF-290, 54 FR 53055, Dec. 27, 1989]

**§ 478.57 Discontinuance of business.**

(a) Where a firearm or ammunition business is either discontinued or succeeded by a new owner, the owner of the business discontinued or succeeded shall within 30 days thereof furnish to the Chief, National Licensing Center notification of the discontinuance or succession. (See also § 478.127.)

(b) Since section 922(v), Title 18, U.S.C., makes it unlawful to transfer or possess a semiautomatic assault weapon, except as provided in the law, any licensed manufacturer, licensed importer, or licensed dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any semiautomatic assault weapon manufactured or imported after September 13, 1994, to a person specified in § 478.40(b), or, subject to the provisions of §§ 478.40(c) and 478.132, a licensed manufacturer, a licensed importer, or a licensed dealer.

(c) Since section 922(w), Title 18, U.S.C., makes it unlawful to transfer or possess a large capacity ammunition feeding device, except as provided in the law, any person who manufactures, imports, or deals in such devices and who intends to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any large capacity ammunition feeding device manufactured after September 13, 1994, to a person specified in § 478.40a(b), or, subject to the provisions of §§ 478.40a(c) and 478.132, a person who manufactures, imports, or deals in such devices.

[33 FR 18555, Dec. 14, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55842, Sept. 28, 1979; T.D. ATF-290, 54 FR 53055, Dec. 27, 1989; T.D. ATF-363, 60 FR 17453, Apr. 6, 1995; T.D. ATF-383, 61 FR 39321, July 29, 1996]

**§ 478.58 State or other law.**

A license issued under this part confers no right or privilege to conduct business or activity contrary to State or other law. The holder of such a license is not by reason of the rights and privileges granted by that license immune from punishment for operating a firearm or ammunition business or activity in violation of the provisions of any State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under Federal law or regulations.

**§ 478.59 Abandoned application.**

Upon receipt of an incomplete or improperly executed application on ATF form 7 (5310.12), or ATF Form 8 (5310.11) Part II, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned and the license fee returned.

[T.D. ATF-135, 48 FR 24068, May 31, 1983]

**§ 478.60 Certain continuances of business.**

A licensee who furnishes his license to the Chief, National Licensing Center for correction or endorsement in compliance with the provisions contained in this subpart may continue his operations while awaiting its return.

[33 FR 18555, Dec. 14, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

**Subpart E—License Proceedings**

**§ 478.71 Denial of an application for license.**

Whenever the Director of Industry Operations has reason to believe that an applicant is not qualified to receive a license under the provisions of § 478.47, he may issue a notice of denial, on Form 4498, to the applicant. The notice shall set forth the matters of fact and law relied upon in determining that the application should be denied, and shall afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing