
AUSTIN KNUDSEN



STATE OF MONTANA

November 29, 2022

Mr. Raj Subramaniam
President and Chief Executive Officer
FedEx Corporation
942 South Shady Grove Road
Memphis, TN 38120

Re: Updated Firearm Shipping Policies

Dear Mr. Subramaniam:

I, along with 17 other State Attorneys General, write to request information about FedEx's updated terms of service for gun store owners. In recent weeks, several Montanans who hold Federal Firearms Licenses (FFLs) have reached out to my office with concerns about your company's updated policies. Specifically, they allege that the new regulations allow your company to track firearm sales with unprecedented specificity and bypass warrant requirements to share that information with federal agencies.

According to these reports, FedEx now requires FFL holders to create three separate shipping accounts: one for firearms, one for firearm parts, and one for all other firearm-related products. Under this three-tier system, gun sellers cannot mix and match shipments, which reveals to your company whether they are shipping a gun, gun part, or a gun-related item.

In addition to creating three distinct shipping groups, FedEx now apparently demands that gun store owners retain documents about what specific items those shipments contain and make that information available to FedEx upon request. These demands, in tandem, allow FedEx to create a database of American gun purchasers and determine exactly what items they purchased.

Perhaps most concerning, your policies allegedly allow FedEx to "comply with ... requests from applicable law enforcement or other governmental authorities" even when those requests are "inconsistent or contrary to any applicable law, rule, regulation, or order." In doing so you—perhaps inadvertently—give federal agencies a workaround to federal law, which has long prevented federal agencies from using

DEPARTMENT OF JUSTICE

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gun sales to create gun registries.¹ But under these policies, FedEx can provide information at will or upon request to federal agencies—information detailing which Americans are buying what guns.

Finally, I've received reports that your new firearms shipping agreement contains a gag clause. Specifically, your company allegedly instructs gun store owners that the agreement is "confidential and shall be held in strict confidence by both parties and may not be disclosed unless required by law"

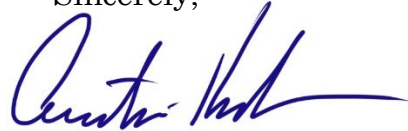
Of course, this is very disturbing. I would like to provide FedEx the opportunity to clarify these reports or provide any explanation for them. Specifically, I'd like FedEx to provide a copy of these agreements to our offices and answer the following questions:

1. Did FedEx enact these policies with the goal of information sharing with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) or any other federal agency?
2. Did FedEx enact these policies at the request of officials in ATF, a different federal agency, or on its own initiative?
3. If FedEx implemented these policies at the request of a federal agency, please identify that agency, the officials who made that request, the nature of that communication, and any legal authorization cited by those officials.
4. If FedEx changed its policies on its own initiative, please explain why it made those changes.
5. Did FedEx communicate or coordinate with United Parcel Service (UPS) in making these changes?
6. Did ATF or other federal agency employees help draft the updated shipping agreements?
7. If your shipping agreement does contain a gag clause, please explain the purpose of that clause and whether you intended it to prevent an investigation into the legality of the agreement.

¹ See 28 CFR § 25.9(b)(3) (preventing federal agencies from using the National Instant Criminal Background Check System to create gun registries).

Within 30 days of this letter's date, please provide our offices with a copy of your updated shipping agreement along with answers to the questions above. Additionally, I recommend that you consider taking actions to limit potential liability moving forward, including the immediate cessation of any existing warrantless information sharing with federal agencies about gun shipments.

Sincerely,



Austin Knudsen
ATTORNEY GENERAL OF MONTANA



STEVE MARSHALL
ATTORNEY GENERAL OF ALABAMA



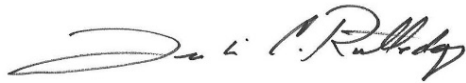
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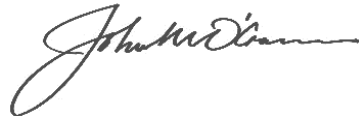
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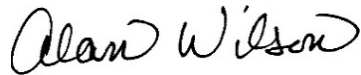
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