



**FIREARMS DIVISION**  
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November 1, 2005

Mr. Matthew P. Foose  
95 South Market Street, Suite 300  
San Jose, CA 95113

Dear Mr. Foose:

I am writing in response to your letter dated October 4, 2005 regarding the sale of 80% completed firearms receivers in California. You asked about two different types of receivers: an AR-15, and a Government Model 1911. The answer to your question depends upon the type of receiver at issue.

As you pointed out in your letter, the manufacture and sale of AR-15's is illegal in California pursuant to Penal Code 12280. It is also illegal to possess an unregistered AR-15 rifle in California, whether the rifle is a Colt AR-15, or another version of that model. It is also illegal to "cause" an assault rifle "to be manufactured." Therefore, it would be illegal to sell AR-15 receivers in California to persons intending to "manufacture" their own AR-15 rifles, even if the receivers were only 80% completed.

Government Model 1911 pistols, on the other hand, are legal to own in California. Receivers for 1911 models that are 80% completed may be sold to purchasers who intend to "manufacture" their own pistols. When the firearms are complete, the owners will need to apply for a serial number from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. The completed pistols cannot be sold by a California licensed firearms dealer, however, unless they are tested by a DOJ-certified laboratory, and listed for sale on the DOJ Roster of handguns that are approved for sale in the state. A person cannot "manufacture" more than five firearms per year without a state firearms manufacturing license.

I hope that this information was helpful. Feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alison Merrilees", written over a horizontal line.

**ALISON MERRILEES**  
Deputy Attorney General  
Firearms Division

For **BILL LOCKYER**



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December 21, 2005

Mr. Matthew P. Foose  
95 South Market Street, Suite 300  
San Jose, CA 95113

RE: Additional Information about Manufacture of 80% Receivers

Dear Mr. Foose:

I am writing in response to your letter dated November 9, 2005, requesting additional information.

First, you asked whether it is legal to manufacture 80% completed AR-15 receivers in California that are only offered for sale outside of the state. The prohibition in Penal Code 12280 against the manufacture of assault weapons does not distinguish between assault weapons that are to be sold within the state of California and those that are to be sold outside of the state. The prohibition in section 12280 is against the *manufacture* of assault weapons "*within the state*."

The determination of whether a manufacturer is operating within the law depends on the product that is manufactured, not how close the product is to being completed. If a lower receiver that is virtually identical to a banned assault weapon is being produced in California, the manufacturer could face liability under Penal Code 12280(a), regardless of how complete (or incomplete) the receiver may be.

Second, you asked about manufacturing an AR-15 lower receiver with a blocked or otherwise modified magazine well. While we would be happy to offer an opinion about the legality of a particular modification, we cannot do so without physically examining the modified receiver itself. If you would like to submit a sample for examination, please contact me for instructions about how to do so.

I hope that this information was helpful. Feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alison Merrilees", is written over the word "Sincerely,".

ALISON MERRILEES  
Deputy Attorney General  
Firearms Division

For **BILL LOCKYER**  
Attorney General

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November 9, 2005

Attorney General's Office  
California Department of Justice  
Attn: Public Inquiry Unit  
P.O. Box 944255  
Sacramento, California 94244-2550

Attn: Alison Merrilees, Deputy Attorney General

Re: LEGAL OPINION RE MANUFACTURE OF 80% RECEIVERS

Dear Ms. Merrilees:

Thank you for your letter of November 11, 2005 sent in response to my letter of October 4, 2005. I have reviewed your letter and there are a few points that require clarification.

First, I believe a distinction should be made relating to the ultimate location that the 80% AR-15 receivers are to be sold at. As you should recall, my letter of October 2, 2005 states: "(T)o the extent that the AR-15 is banned in California under SB-23, any 80% completed AR-15 receiver with an open magazine well **will be offered for sale outside of California only.** (emphasis added)"

Your letter, in turn, states that " (i)t would be illegal to sell AR-15 receivers in California to persons intending to 'manufacture' their own AR-15 rifles, even if the receivers were only 80% completed". I agree that under SB-23 it is illegal to manufacture a finished Colt style AR-15 receiver with an open magazine well in California and then offer it for sale to a person in California. Such acts would arguably cause an assault rifle to be manufactured in California in violation of the prohibition under Penal Code 12280.

Nonetheless, the question we have is whether it is legal to manufacture 80% receivers within California and then sell the 80% receivers to persons located *outside* of California. For example, such receivers could be manufactured in California and then sold persons in states along the eastern seaboard or even sold to persons in Nevada, Arizona, Oregon without violating California law. Such incomplete receivers could even be sold from California through the mail and via the internet as long as the purchaser is located *outside of California*.

I recognize that a problem would exist if such 80% receivers were manufactured in

California and then sold to persons with the knowledge that the purchaser would complete the Colt style AR-15 receiver with the intention of importing it back into California. This would probably be interpreted to be a violation of conspiracy law and is not the intent of my client. Instead, my client simply wishes to manufacture and sell 80% AR-15 receivers from California to purchasers located outside of California.

I request your clarification on the above point.

Second, your office did not clearly address my statement advising that **if any partially completed AR-15 frames are offered for sale in California, the magazine well will be blocked or otherwise modified to remain within the limits imposed under SB-23.** Manufacturers already exist that offer AR-15 receivers with blocked magazine wells. These receivers comply with California law since the magazine capacity is limited to no more than ten rounds and the magazines are not easily removed without a tool. It would therefore appear that 80% receivers with blocked or modified magazine wells are perfectly legal to manufacture and sell in California. Here too, I request your clarification on this point.

I look forward to hearing from you shortly.

Very truly yours,

Law Offices of Matthew P. Foose



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MATTHEW P. FOOSE

MPF:bms