



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226

September 15, 2003

Open Letter to All Indiana Federal Firearms Licensees

The purpose of this letter is to advise you of important changes to the procedures Indiana Federal Firearms Licensees (FFLs) must follow beginning October 1, 2003, in order to comply with the Brady Law, 18 U.S.C. § 922(t). It also will advise you of the procedures you will have to follow to comply with Indiana State law.

Beginning October 1, 2003, the following changes will take effect: (1) Indiana licenses to carry handguns will no longer qualify as alternatives to a National Instant Criminal Background Check System (NICS) check through the Federal Bureau of Investigation (FBI); (2) FFLs must contact the FBI NICS directly for background checks on ALL long gun AND handgun sales; and (3) for any handgun sale where the purchaser does not have an Indiana license to carry, FFLs must contact both the Indiana State Police (ISP), to satisfy the State background check requirement, and the FBI NICS, to satisfy the Federal background check requirement. Please note that these changes also apply to pawn transactions. The changes are discussed in detail below.

Indiana Licenses to Carry Handguns

Background

The permanent provisions of the Brady Law took effect on November 30, 1998. The Brady Law generally requires licensed dealers to initiate a NICS background check through the FBI before transferring a firearm to an unlicensed individual. However, the Brady Law contains a few exceptions to the NICS check requirement, including an exception for holders of certain State permits to possess, carry, or acquire firearms. The law and implementing regulations provide that permits issued within the past 5 years may qualify as alternatives to the NICS check if certain other requirements are satisfied, most importantly, the authority issuing the permit must conduct a NICS background check and, also, must deny a permit to anyone prohibited from possessing firearms under Federal, State, or local law.

In October 1998, ATF sent an Open Letter to Indiana FFLs advising them that Indiana licenses to carry handguns, including personal protection licenses and hunting and target licenses, would qualify as alternatives to the background check required under the Brady Law. ATF's recognition of these Indiana licenses as Brady alternatives was based on the fact that the ISP conducted background checks through NICS prior to the issuance or renewal of these licenses, and denied a license to anyone prohibited under Federal, State, or local law.

Change in ISP procedures

Recently, the ISP informed ATF that although they will continue to conduct NICS checks on all applicants for licenses to carry handguns, effective October 1, 2003, the ISP only will apply State law in determining if a license should be denied. Accordingly, licenses may be issued to persons prohibited from possessing firearms under Federal law. Therefore, effective October 1, 2003, Indiana licenses to carry handguns will no longer qualify as alternatives to the NICS background check required under the Brady Law. This means that starting October 1, 2003, an FFL must contact the FBI to conduct a NICS check on all purchasers, including those possessing an Indiana license to carry a handgun.

Handgun Checks

The October 1998 Open Letter also had advised Indiana FFLs that they should contact the FBI for background checks for long gun transactions and the ISP for background checks for handgun transactions. However, Indiana recently informed ATF that effective October 1, 2003, the ISP will no longer conduct NICS background checks on handgun transactions. Accordingly, beginning October 1, 2003, FFLs will have to contact the FBI NICS for background checks for long gun AND handgun transactions.

Please note, however, that FFLs will still be required to contact the ISP's Firearms Section (as well as the FBI) for handgun sales where the buyer does not have an Indiana license to carry a handgun, possession of which would exempt the holder from the State background check requirement.

Steps to Take in Specific Transaction Scenarios

Based on these changes, beginning October 1, 2003, Indiana FFLs must contact the following entities in connection with the transactions described below:

1. Handgun sale - buyer has no Indiana license to carry:
 - directly contact the FBI NICS; AND
 - directly contact the ISP.
2. Handgun sale - buyer has an Indiana license to carry:
 - directly contact the FBI NICS.
3. Long gun sale - buyer has no Indiana license to carry:
 - directly contact the FBI NICS.
4. Long gun sale - buyer has an Indiana license to carry:
 - directly contact the FBI NICS.

To contact the FBI NICS to conduct a background check, call, toll free, 1-877-324-6427, 7 days a week (with the exception of Christmas day), between 8 a.m. and 1 a.m. Eastern Standard time (EST).

To contact the ISP to conduct a background check, call 317-233-9555, Monday through Friday, between 9 a.m. and 5:30 p.m.

Contacts for NICS Enrollment and Further Questions

FFLs must be enrolled with the FBI NICS before they can initiate NICS checks directly with the FBI. FFLs who are not currently enrolled are advised to do so upon receipt of this letter.

To enroll, call the Customer Service Division of the NICS Operations Center, toll free, at 1-877-444-NICS (1-877-444-6427).

If you have any questions about enrolling with the FBI, conducting NICS checks through the FBI, or why you must now contact the FBI for handgun sales, please call the FBI, toll free, at 1-877-444-NICS (1-877-444-6427). If you have any questions about conducting background checks through the ISP, please call the ISP, at 317-233-9555. Finally, if you have any questions about Indiana licenses to carry no longer qualifying as alternatives to NICS checks, please call ATF's Firearms Programs Division at 202-927-7770.

We hope that your transition to these new procedures on October 1, 2003, will not be an inconvenience. As always, we thank you for your cooperation.

A handwritten signature in black ink that reads "John P. Malone". The signature is written in a cursive style with a large initial "J" and "M".

John P. Malone
Assistant Director
Firearms, Explosives and Arson