



U.S. Department of Justice
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Assistant Director
Enforcement Programs & Services

Washington, DC 20226

June 6, 2023

OPEN LETTER TO ALL OKLAHOMA FEDERAL FIREARMS LICENSEES

The purpose of this open letter is to advise you that the Oklahoma Self Defense Act Handgun License (SDA Handgun License) issued on or after November 1, 2021, meets the requirements as an alternative to the National Instant Criminal Background Check System (NICS) check—but only in Oklahoma during the five-year period beginning on the date of issuance of the SDA Handgun License. The following procedure may be used to comply with the Brady Handgun Violence Prevention Act (Brady Act), 18 U.S.C. § 922(t), when transferring a firearm to an unlicensed person.

The Brady Act generally requires Federal firearms licensees (FFLs) to initiate a NICS check before transferring a firearm to an unlicensed person. Nonetheless, pursuant to 18 U.S.C. § 922(t)(3), the Brady Act contains exceptions to the NICS check, including an exception for holders of certain State permits to possess, carry, or acquire firearms. The law and implementing regulations provide that those permits issued within the past five years may qualify as alternatives to the NICS check if certain other requirements are satisfied. Most importantly, the State authority issuing the permit must conduct a NICS background check for each permit applicant, and if the applicant is a non-U.S. citizen, the check must also include an Immigration Alien Query check. The State authority must deny a permit to anyone prohibited from possessing firearms under Federal, State or local law. *See 27 CFR 478.102(d).*

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has reviewed the Oklahoma SDA Handgun License and determined that the license meets the requirements as an alternative to the NICS background check requirement when transferring a firearm, including a frame or receiver, to an unlicensed person—but only for the initial five-year period beginning on the original issuance date. The Oklahoma SDA Handgun License may be obtained for either a five- or a ten-year term, but the holder cannot continue to use their Oklahoma SDA Handgun License as an alternative to a NICS background check beyond the five-year period after the original issuance date. Thereafter, the Oklahoma SDA Handgun License would no longer meet the requirements of 18 U.S.C. § 922(t). The holder of an Oklahoma SDA Handgun License would then be subject to a NICS check by an Oklahoma FFL for firearm transfers occurring after the first five years from the issuance date.

As provided in 18 U.S.C. § 922(t)(1)(C) and 27 CFR 478.102(a)(3), an FFL transferring a firearm to an unlicensed person pursuant to a permit alternative must comply with the following requirements:

1. Have the transferee complete and sign ATF Form 4473, Firearms Transaction Record (Form 4473);
2. Verify the identity of the transferee through a government-issued photo identification (for example, a driver's license);
3. Verify that the permit is an unexpired Oklahoma SDA Handgun License issued by the State of Oklahoma and the permit was issued within the five-year period preceding the date of the firearm transfer by the FFL; and
4. Either retain a copy of the transferee's permit and attach it to the Form 4473, or record on the Form 4473 any identifying number from the permit, the date of issuance, and the expiration date of the permit.

A NICS background check is required if the subject presents either an expired Oklahoma SDA Handgun License or one that was issued more than five years before being presented.

Regardless of the transferee's possession of an Oklahoma SDA Handgun License, FFLs may not knowingly transfer a firearm to a person who is prohibited from possessing a firearm.

If you have questions about this Open Letter, please call ATF's Firearms Industry Programs Branch at (202) 648-7190.

**MATTHEW
VARISCO**

Digitally signed by
MATTHEW VARISCO
Date: 2023.06.06
09:26:45 -04'00'

Matthew Varisco
Assistant Director
Enforcement Programs and Services