



## Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Washington, DC 20226

November 13, 1998

### **Open Letter to All South Carolina Federal Firearms Licensees**

#### **Permanent Provisions of the Brady Law**

The purpose of this letter is to advise you of your responsibilities under the permanent provisions of the Brady law, 18 U.S.C. § 922(t). On November 30, 1998, the interim provisions of the Brady law will cease to apply, and the permanent provisions of the Brady law will take effect.

The permanent provisions of the Brady law provide for the establishment of a National Instant Criminal Background Check System (NICS) that licensees must contact before transferring any firearm to unlicensed individuals. While the interim provisions apply only to handguns, the permanent provisions of Brady will apply to all firearms. In addition, under permanent Brady there will no longer be an exemption for the redemption of a firearm from pawn.

#### **Notification from the Attorney General**

On October 30, 1998, the Department of Justice published a final rule in the Federal Register, announcing the establishment of the NICS as of October 31, 1998. Accordingly, licensees will be required to comply with permanent Brady as of November 30, 1998. Copies of the Justice Department's final rule are available on DOJ's Home Page on the Internet at <http://www.fbi.gov/programs/nics/index.htm>, and DOJ is mailing copies of the final rule to licensees.

#### **Initiation of NICS Checks**

The State of South Carolina will act as the point of contact for NICS checks for all firearms transactions. To request a NICS check for any firearm transaction you must contact the South Carolina Law Enforcement Division. The South Carolina Law Enforcement Division will be sending packages to all licensees in your state approximately 15 days prior to the effective date of permanent Brady advising you of the telephone number to call for a NICS check.

#### **Transfers Subject to NICS Check Requirement**

As of November 30, 1998, you will be required to initiate a NICS check prior to transferring a firearm to anyone who is not a licensee. The following steps must be followed prior to transferring a firearm:

1. Have the transferee complete and sign ATF Form 4473, Firearms Transaction Record.

2. Verify the identity of the transferee through a Government-issued photo identification (for example, a driver's license).
3. Contact NICS through the South Carolina Law Enforcement Division. You will get either a "proceed," "denied" or "delayed" response from the system. If you get a "delayed" response and there is no additional response from the system, you may transfer the firearm after three business days have elapsed. Of course, you must still comply with any waiting period requirements under State law.
4. If you have initiated a NICS check for a proposed firearms transaction, but the transfer of the firearm is not completed, you must retain the Form 4473 in your records for a period of not less than 5 years. If the transfer is completed, the Form 4473 must be retained for at least 20 years.

### **Alternatives to a NICS Check**

The Brady law provides that certain permits may qualify as alternatives to a NICS check. The concealed weapons permit in your State qualified as an alternative to a background check under the interim provisions of Brady, and it will continue to qualify as an alternative to the NICS check required by permanent Brady. Of course all such transactions must still comply with State law.

If you transfer a firearm to an unlicensed person pursuant to the permit alternative, you must comply with the following requirements:

1. Have the transferee complete and sign ATF Form 4473, Firearms Transaction Record.
2. Verify the identity of the transferee through a Government-issued photo identification (for example, a driver's license).
3. Verify that the permit was issued within the past 5 years by the State in which the transfer is to occur, and that the permit has not expired under State law.
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.

### **Final Regulations and Forms 4473**

On October 29, 1998, ATF published final regulations implementing the permanent provisions of the Brady law. ATF has also modified ATF Form 4473, Firearms Transaction Record, to reflect the changes in the background check system. A copy of the final regulations and a small supply of Forms 4473 will be mailed to each licensee under separate cover before November 30, 1998.

### **Questions**

If you have any questions, please contact your local ATF office or the South Carolina Law Enforcement Division.

Jimmy Wooten  
Assistant Director  
Firearms, Explosives and Arson