



FFL NEWSLETTER

FEDERAL FIREARMS LICENSEE INFORMATION SERVICE

August 2005

In an effort to keep Federal firearms licensees (FFL) abreast of changing firearms laws and regulations, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will provide semi-annual FFL Newsletters. ATF will publish the newsletters in February and August of each year and distribute them to each FFL. Previous editions of the FFL Newsletters are available on ATF's website (<http://www.atf.gov>).

CERTIFIED FAXED COPIES OF LICENSES

Section 27 CFR 478.94 requires the following for sales or deliveries of firearms between licensees:

“A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise disposing of firearms, and a licensed collector selling or otherwise disposing of curios or relics, to another licensee shall verify the identity and licensed status of the transferee prior to making the transaction. Verification shall be established by the transferee furnishing to the transferor a certified copy of the transferee's license and by such other means as the transferor deems necessary:...”

This section of the regulations requires a licensee to verify another licensee's status prior to making sales or deliveries to such licensee. Please be advised that ATF will now recognize a faxed copy of a Federal firearms license as an acceptable alternative form of verification.

ATF strongly suggests that FFLs utilize the FFLeZ Check system and verify the authenticity of the transferee's license prior to shipping or disposing of a firearm(s) to another licensee.

In addition, verification and certification of a license is not considered valid unless a legible copy of the transferee's license clearly identifies the name, address, license number and expiration date of the license. Acceptance of blurred or illegible copies of a transferee's license may constitute noncompliance with regulations.

Finally, since all fax machines and settings differ, FFLs may need to fax with a fax resolution setting of fine, super fine, or photo to ensure the fax copy of the license is legible.

HOW TO REPORT THE THEFT OR LOSS OF A FIREARM

As a reminder, Federal firearms licensees must notify ATF and their local police department within 48 hours of discovering the theft or loss of a firearm from their inventory. ATF's Stolen Firearms Program Manager can be contacted by calling toll-free (888) 930-9275. During the call, ATF will provide the licensee with an incident number that should be recorded (along with the police report number) within the disposition section of the licensee's Acquisition/Disposition records for each missing or stolen firearm. In addition, an ATF F 3310.11 [Federal Firearms Licensee Inventory Theft/Lost Report](#) must be prepared and submitted to:

Bureau of Alcohol, Tobacco, Firearms and
Explosives
National Tracing Center
Attn: Firearms Interstate Theft Program Manager
244 Needy Road
Martinsburg, West Virginia 25405

If a licensee subsequently locates a missing or stolen firearm that has been reported to ATF, the licensee must notify ATF by calling the toll-free number referenced above.

NATIVE AMERICAN IDENTIFICATION CARDS

ATF has recently received a number of inquiries as to whether a Native American Identification Card, which usually includes the prospective purchaser's photograph, address and birth date, meets the identification requirements for purchasing a firearm from a Federal firearms licensee (FFL) as required by the Brady law, 18 U.S.C. 922(t). ATF has determined that because such documents are not made or issued by or under the authority of the United States or a State or local government within the meaning of 18 U.S.C. 1028(d)(3), a Native American Identification Card cannot be utilized as identification to purchase a firearm. Since Native Americans are eligible to receive State-issued driver's licenses or other Federal, State, or local government issued photo identification documents, this restriction does not prevent Native Americans from acquiring firearms from FFLs.

TEEN GETS LIFE IN PRISON IN MURDER OF INKSTER GUN DEALER

This is a follow up to the February 2005 FFL Newsletter article "Arrest Made In Murder Of Inkster Gun Dealer." On March 18, 2005, Anthony Field was found guilty of first-degree murder and arson for the arson/homicide of FFL Clyde Alexander, d/b/a Alexander's Sport Shop in Inkster, Michigan.

FFL Alexander was killed on August 3, 2004, when a fire occurred at his place of business. He had been beaten and bound and subsequently died from smoke inhalation. Over 90 firearms were taken from the business.

ATF assisted with the investigation by conducting interviews, surveillances, polygraph examinations, arrest warrants, Federal grand jury subpoenas as well as the cause and origin examination of the scene.

FIVE INDICTED ON FIREARMS TRAFFICKING AND DRUG CHARGES

FAIRMONT, WEST VIRGINIA - Four individuals were arrested on Federal Arrest Warrants on March 2, 2005, by Federal, State, and local law enforcement officers on charges contained in two separate indictments returned by a Federal Grand Jury sitting in Clarksburg, West Virginia.

The indictments and arrests are the result of a six-month investigation relating to "straw purchases" of firearms at two pawnshops in the Fairmont, West Virginia area.

A "straw purchaser" is someone who buys firearms from a licensed gun dealer, i.e., a Federal firearms licensee (FFL), on behalf of another person who is the actual buyer of the firearms. The straw purchaser fills out the paperwork to buy the firearms, but the actual buyer will be the actual owner of the firearms. A straw purchaser may be used when the actual buyer is prohibited from having firearms, such as a convicted felon or an individual who is less than 21 years of age. On other occasions, the actual buyer of the firearm may not be a prohibited person, but does not want the firearms to be listed in his or her name. Because certain documentation is required by Federal regulations when purchasing firearms from an FFL, straw purchases almost always involve the falsification of required records, which is also a crime.

The defendants had their initial appearances on March 2, 2005, before United States Magistrate Judge John S. Kaul in Clarksburg.

The cases were investigated by the Bureau of Alcohol, Tobacco, Firearms and Explosives with the assistance of the Fairmont Police Department and the Harrison County Drug Task Force. Officers from the United States Marshals Service and the West Virginia State Police assisted with the arrests.

INTERNET SALES OF FIREARMS

There are numerous provisions within the GCA that govern the transfer, sale or disposition of a firearm between a Federal firearms licensee (FFL) and a non-licensed person. Generally FFLs may not transfer firearms to persons who reside outside their State of residence, with the exception of long gun transactions that take place over-the-counter and comply with the laws of the FFL's State and the purchaser's State. Thus, an FFL who locates a purchaser for a handgun over the Internet could transfer the firearm to the purchaser only if he or she was a resident of the State where the FFL's premises are located. Transfers of long guns could take place at the FFL's premises for sales to in-state and out-of-state residents, if the transaction is over-the-counter and complies with the appropriate State laws. For all other transactions, the FFL would be required to ship

the firearm to an FFL in the State where the purchaser resides. The in-state FFL would then have the purchaser complete an ATF Form 4473 (Firearms Transaction Record) and conduct a background check in compliance with the Brady law.

Additionally, FFLs are required to conduct business from their licensed premises. Licensees may not sell firearms from locations other than their licensed premises, with the exception of gun shows or other events dedicated to the sporting use of firearms and held in the State where the FFL's premises are located. Thus, an FFL who locates purchasers through the Internet must complete the transaction at the premises indicated on the license, which requires that all paperwork and shipment take place from the licensed premises. For Internet sales requiring the firearm to be transferred to another FFL in the purchaser's State of residence, the second FFL would comply with this requirement of the law.

Moreover, it is a requirement for licensees selling firearms through the Internet to be in compliance with State and local laws. For information on State and local regulations, the Office of the Attorney General can be contacted in each particular State to inquire about possible restrictions on firearm possession and transfer.

DEALERS IN BLACK POWDER

It has been brought to the attention of ATF that some black powder dealers licensed under the Federal explosives laws have not been completing the ATF Form 5400.28, Employee Possessor Questionnaire for their employees. Even though black powder is exempted under 27 CFR 555.141(b) for certain purposes, manufacturers, importers, and dealers in black powder must still obtain licenses under the Federal explosives laws. Furthermore, in obtaining or renewing such licenses, applicants must submit ATF Form 5400.28, Employee Possessor Questionnaire, for each employee who handles (possesses) or sells black powder 27 CFR 555.49(b)(2)(viii).

ATF would like to remind all black powder dealers that the Federal explosives regulations at 27 CFR 555.57(b) require that, for all licenses and permits issued on or after May 24, 2003, each person holding a license or permit must report any change in responsible persons or employees authorized to possess explosives material to ATF within 30 days of employment or upon renewal, whichever comes first. The notification must include all

identifying information for the responsible person and a completed ATF form 5400.28, Employee Possessor Questionnaire for each employee possessor.

Persons dealing in smokeless powder designed for use in small arms ammunition are exempt from this requirement under 27 CFR 555.141(a)(4). However, manufacturers and importers of smokeless powder must obtain a license under the Federal explosives laws and under the Gun Control Act, as it is both an "explosive" under 18 U.S.C. 841(d) and "ammunition" under the Gun Control Act, 18 U.S.C. 921(a)(17).

Persons who are prohibited from possessing explosive materials under 18 U.S.C. 842(i) may not be employed in a position that causes them to possess black powder or smokeless powder. Persons who are prohibited from possessing explosives materials may request relief from the Federal explosives disability by filing an ATF form 5400.29, Application for Restoration of Explosives Privileges. However, filing an application for relief does not give the employee the right to possess explosives. Employees must wait until relief is granted. If you have any question regarding applying for relief of disability, please contact Relief of Disabilities Section at (202) 927-2260.

NON IMMIGRANT ALIENS AND NICS ALTERNATIVE PERMIT

As provided by The Brady Law, ATF has determined that many States issue purchase or concealed carry permits that qualify as alternatives to a NICS check. A list of those States permits that qualify as alternatives can be found at ATF's website (http://www.atf.gov/firearms/bradylaw/permit_chart.htm).

Please be advised that before licensees can lawfully transfer a firearm to a nonimmigrant alien who possesses a NICS alternative permit, the nonimmigrant alien must provide additional identification to the Federal firearms licensee to establish that he or she has resided in a State for at least 90 continuous days immediately prior to the date of the sale. In addition, the nonimmigrant alien is prohibited from receiving a firearm unless he or she falls within an exception as outlined in 18 U.S.C. 922(y)(2) and can provide evidence of this to the licensee. A common exception is the possession of a valid hunting license. (For further information on nonimmigrant aliens see the ATF Form 4473 Important Notice 6 and Instructions to the Transferor 2 and 3).

FBI/NICS NEWS

NICS INFORMATION ON ITS WAY

FBI NICS has created a Compact Disc (CD) that will include on it the NICS User Manual, enrollment information, brochures, reference material, and the NICS Section E-Check video, which demonstrates how to conduct background checks via the Internet. Additional information on the E-Check can be found at www.nicsezcheckfbi.gov or call 1-877-444-6427. This CD will be searchable by keyword and enable a Federal firearms licensee (FFL) to print copies of the reference guides and brochures.

In late summer 2005, the FBI NICS Section will be sending the CD to all active FFLs that contact the FBI NICS Section directly to process their firearm background checks. Enclosed with the package will also be a yellow FFL Quick Reference Flip Chart. The Flip Chart is a tool to quickly access general NICS information, such as NICS and ATF contact numbers, Internet sites, federal prohibitors, etc. The Flip Chart is compact and ideal for your desk and gun shows.

If you do not receive a package or do not have the proper equipment to access the CD, you may request that a hard copy be mailed to you by contacting the FBI Criminal Justice Information Services (CJIS) Division's NICS Section FFL Liaison Specialist, Giget M. Stover, at (304) 625-7387.

COLLATERAL (PRE-PAWN) NICS CHECK

The Omnibus Appropriations Act for 1999 provided that a pawnbroker has the option to request a NICS check when a firearm is offered as collateral for a loan. In an open letter to all pawnbrokers in 1998, which is available at ATF's website (<http://www.atf.gov/firearms/bradylaw/pawn.htm>), ATF announced the availability of the pre-pawn check, which is commonly referred to by FBI NICS as a "collateral NICS check." There have been instances of pawnbrokers utilizing these checks to conduct NICS checks unrelated to a pawn transaction or other firearm transaction. Please be advised this is an unauthorized misuse of the NICS system in violation of ATF and FBI NICS regulations.

NICS checks may only be conducted by a Federal firearms licensee to determine whether a prospective purchaser is eligible to receive a firearm, or for a collateral NICS check, when an individual is attempting to pawn a firearm. Finally, if a pawnbroker does conduct a collateral NICS check and subsequently accepts the firearm into pawn, the licensee must conduct another NICS check upon redemption of the pawned firearm.

Office of Security
U.S. Department of Homeland Security
Arlington, Virginia 22202

Advisory



Reminder to Travelers of Requirements for Transporting Firearms, Firearm Parts and Ammunition on Commercial Aircraft

I. Passengers are prohibited from carrying firearms, firearm parts and ammunition

Federal regulations administered by the Transportation Security Administration (TSA) prohibit the carriage of firearms and guns, as well as parts of firearms and guns (such as magazines or clips, bolts, firing pins, and other components), in the traveler's possession or in carry-on luggage on commercial aircraft.

Ammunition also is NOT allowed as a carry-on item. Carrying even a single round of ammunition through airport security checkpoints is a violation of regulations.

TSA regulations are strictly enforced. Violations can result in criminal prosecution and imposition of civil penalties of up to \$10,000 per violation.

II. Checked-baggage requirements for transporting firearms and ammunition

All persons carrying firearms and ammunition in checked baggage, including LEOs, must comply with the provisions of 49 CFR § 1540.111. Following is a summary of key requirements of this section and other regulatory provisions.

- All firearms must be declared to the air carrier during the ticket counter check-in process. Travelers with firearms should check-in at the ticket counter and not use electronic check-in (e.g., kiosks or the Internet).
- All declared firearms must be unloaded and transported in a locked hard-sided container. Travelers are advised to place all firearm parts in a locked hard-sided container to avoid violations.
- Access to the declared firearm must be restricted, with only the passenger possessing the container combination or key to the lock. In the event TSA must open the container for inspection, it is preferred that the passenger turn over the key or combination to the screener.
- Any ammunition transported must be placed in checked baggage and securely packed in fiber (such as cardboard), wood or metal boxes or other packaging specifically designed to carry small amounts of ammunition. Firearm magazines/clips do not satisfy the packaging requirement unless they provide a complete and secure enclosure of the ammunition (e.g., by securely covering the exposed portions of the magazine or by securely placing the magazine in a pouch, holder, holster or lanyard). The ammunition may also be located in the same hard-sided case as the firearm as long as it is properly packed as described here.
- It is also recommended that the ammunition package in checked baggage be stabilized, either by taping it to the interior wall of the bag, or by use of packing material or other means to ensure the ammunition package does not move about the interior of the bag during transportation.
- Black powder, including Pyrodex, and percussion caps used with black-powder type firearms are not permitted on board aircraft, either as accessible property or in checked baggage.

Travelers should also contact their air carrier regarding its firearm and ammunition carriage policies.

Additional information about the carriage of firearms, firearm parts and ammunition, as well as other air travel tips, can be found at www.tsa.gov or by contacting the TSA Contact Center toll-free at 1-866-289-9673 or by email at TSA-ContactCenter@dhs.gov.

OFFICE OF ENFORCEMENT PROGRAMS AND SERVICES (EPS)

This page reflects recent personnel changes to the Office of Enforcement Programs and Services (Formerly Firearms, Explosives and Arson Directorate) in ATF Headquarters. The following EPS managers can be contacted on issues regarding firearms and ammunition.

Assistant Director**Enforcement Programs and Services**

Lewis Raden
(202) 927-7940

Deputy Assistant Director**Enforcement Programs and Services**

Walfred Nelson
(202) 927-7940

Chief, Firearms Programs Division

John Spurgeon (202) 927-7770

Deputy Chief, Firearms Programs Division

Nicholas Colucci (202) 927-7770

Chief, Firearms Technology Branch

Sterling Nixon (304) 260-1700

Chief, Firearms Enforcement Branch

David Chipman (202) 927-7770

Chief, International Programs Branch

Robert Thomas (202) 927-5560

Chief, Firearms and Explosives**Services Division**

Audrey Stucko (202) 927-8300

Deputy Chief, Firearms and Explosives**Services Division**

Vacant (202) 927-8300

Chief, National Firearms Act Branch

Kenneth Houchens (202) 927-8330

Chief, Firearms and Explosives**Imports Branch**

Kevin Boydston (202) 927-8320

Chief, Federal Firearms Licensing Center

Vacant (404) 417-2750

Chief, National Tracing Center Division

Charles Houser (800) 788-7133

Chief, Firearms Tracing Branch

Vacant (800) 788-7133

Chief, Brady Operations Branch

Bernard Teyssier (304) 260-3860

Chief, National Integrated Ballistics**Identification Network (NIBIN) Branch**

Steve Pugmire (202) 927-5660

TO RECEIVE ATF FORMS AND PUBLICATIONS :**ATF Distribution Center**

P.O. Box 5950
Springfield, VA 22150-5950
(703) 455-7801
<http://www.atf.gov/dcof/index.htm>

REPORT STOLEN FIREARMS:

(Monday – Friday 8:00AM – 4:30PM EST)
(888) 930-9275
(Evenings, Weekends and Holidays)
(800) 800-3855

TO OBTAIN ASSISTANCE REGARDING YOUR LICENSE:**ATF Firearms Licensing Center**

PO Box 409567
Atlanta, GA 30384-9567
(404) 417-2750

TO SHIP OUT-OF-BUSINESS RECORDS:**ATF National Tracing Center**

244 Needy Road
Martinsburg, WV 25405
(800) 788-7133

ATF Web Site: <http://www.atf.gov>

**ADDRESSES AND TELEPHONE NUMBERS FOR
ATF FIELD DIVISIONS AND OTHER KEY OFFICES****Atlanta Field Division**

2600 Century Parkway
Suite 300
Atlanta, GA 30345-3104
(404) 417-2600

Baltimore Field Division

G.H. Fallon Building
31 Hopkins Plaza, 5th Floor
Baltimore, MD 21201-2825
(410) 779-1700

Boston Field Division

O'Neill Federal Building
10 Causeway Street, Room 253
Boston, MA 02222-1047
(617) 557-1200

Charlotte Field Division

6701 Carmel Road
Suite 200
Charlotte, NC 28226
(704) 716-1800

Chicago Field Division

525 West Van Buren Street
Suite 600
Chicago, IL 60607
(312) 846-7200

Columbus Field Division

37 West Broad Street
Suite 200
Columbus, OH 43215
(614) 827-8400

Dallas Field Division

1114 Commerce Street,
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Dallas, TX 75202
(469) 227-4300

Detroit Field Division

1155 Brewery Park Blvd.
Suite 300
Detroit, MI 48207-2602
(313) 259-8050

Houston Field Division

15355 Vantage Pkwy West
Suite 200
Houston, TX 77032-1965
(281) 372-2900

Kansas City Field Division

2600 Grand Avenue
Suite 200
Kansas City, MO 64108
(816) 559-0700

Los Angeles Field Division

350 South Figueroa Street
Suite 800
Los Angeles, CA 90071
(213) 534-2450

Louisville Field Division

600 Dr. Martin Luther King Jr. Place
Suite 322
Louisville, KY 40202
(502) 753-3400

Miami Field Division

5225 NW 87th Avenue
Suite 300
Miami, FL 33178
(305) 597-4800

Nashville Field Division

5300 Maryland Way
Suite 200
Brentwood, TN 37027
(615) 565-1400

New Orleans Field Division

Heritage Plaza
111 Veterans Boulevard, Ste. 1008
Metairie, LA 70005
(504) 841-7000

New York Field Division

241 37th Street, 3rd Floor
Brooklyn, NY 11232
(718) 650-4000

Philadelphia Field Division

US Customs House, Room 607
2nd & Chestnut Streets
Philadelphia, PA 19106
(215) 717-4700

Phoenix Field Division

201 East Washington Street
Suite 940
Phoenix, AZ 85004
(602) 776-5400

San Francisco Field Division

5601 Arnold Road
Suite 400
Dublin, CA 94568-7724
(925) 479-7500

Seattle Field Division

Jackson Federal Building
915 2nd Avenue, Room 790
Seattle, WA 98174
(206) 389-5800

St. Paul Field Division

30 East Seventh Street
Suite 1870
St. Paul, MN 55101
(651) 726-0200

Tampa Field Division

501 East Polk Street
Room 700
Tampa, FL 33602
(813) 202-7300

Washington Field Division

650 Massachusetts Ave NW
Washington, DC 20226
(202) 927-8810