



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226

www.atf.gov

February 17, 2017

OPEN LETTER TO ALL SOUTH DAKOTA FEDERAL FIREARMS LICENSEES

The purpose of this open letter is to advise you of an important change to the procedure you may follow 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 permanent provisions of the Brady Act took effect on November 30, 1998. The Brady Act, codified at 18 U.S.C. § 922(t) generally requires Federal firearms licensees (FFLs) to initiate a National Instant Criminal Background Check System (NICS) background check before transferring a firearm to an unlicensed person. However, the Brady Act contains 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 must deny a permit to anyone prohibited from possessing firearms under Federal, State, or local law.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has reviewed South Dakota's Gold Card Concealed Pistol Permit and Enhanced Permit to Carry a Concealed Pistol and has determined that these permits qualify as alternatives to the background check requirement. Please be advised that only Gold Card Concealed Pistol Permits and Enhanced Permits to Carry a Concealed Pistol issued on or after January 1, 2017, qualify as alternatives to the background check.

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).

South Dakota Federal Firearm Licensees

3. Verify that the permit is either a Gold Card Concealed Pistol Permit or an Enhanced Permit to Carry a Concealed Weapon and the permit was issued on or after January 1, 2017, and 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.

If you have any questions about South Dakota's Gold Card Concealed Pistol Permit or Enhanced Permit to Carry a Concealed Pistol qualifying as an alternative to the NICS check, please call ATF's Firearms Industry Programs Branch at (202) 648-7190.

[signed]

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