



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226

May 2, 2006

OPEN LETTER TO ALL NEW YORK FEDERAL FIREARMS LICENSEES

The purpose of this letter is to advise you of an important change to the procedure you must follow beginning May 2, 2006, in order to comply with the Brady Law, 18 U.S.C. § 922(t).

Beginning May 2, 2006, New York's license to carry and possess handguns no longer qualifies as an alternative to a National Instant Criminal Background Check System (NICS) check through the Federal Bureau of Investigation (FBI). Please note that this change also applies to pawn transactions. The change is discussed in detail below.

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 must deny a permit to anyone prohibited from possessing firearms under Federal, State, or local law.

In 1998, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) sent an Open Letter to all New York FFLs advising them that New York licenses to carry and possess handguns would qualify as alternatives to the background check required under the Brady Law. In March 2004, ATF began a review of all States that had permits that qualified as NICS check alternatives to determine if they still qualified. In May 2005, we informed New York's Division of Criminal Justice that New York no longer met the qualifications. We gave them until September 30, 2005, and then an extension until April 30, 2006, to address our concerns. New York was not able to meet our concerns during this time frame. Accordingly, New York licenses to carry and possess handguns can no longer qualify as a NICS check alternative.

HOW THIS AFFECTS FFLS

Beginning May 2, 2006, you must contact NICS before transferring a firearm to an unlicensed person, even if the person has a New York license to carry and possess handguns. To contact 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).


CONTACTS FOR NICS ENROLLMENT AND FURTHER QUESTIONS

FFLs must be enrolled with 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 FBI NICS Section Customer Service, toll free, at 1-877-444-NICS (1-877-444-6427).

If you have any questions about enrolling with the FBI or conducting NICS checks through the FBI, please call the FBI, toll free, at 1-877-444-NICS (1-877-444-6427). If you have any questions about New York's license to carry and possess handguns no longer qualifying as an alternative to a NICS check, please call ATF's Brady Operations Branch at 304-616-4200.

We hope that your transition to this new procedure on May 2, 2006, will not be an inconvenience. As always, we thank you for your cooperation.



 Lewis P. Raden
Assistant Director
(Enforcement Programs and Services)