



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Enforcement Programs and Services

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www.atf.gov

OPEN LETTER TO ALL MINNESOTA FEDERAL FIREARMS LICENSEES

The purpose of this Open Letter is to advise you of an important change to the procedure you must follow to comply with the Brady Handgun Violence Prevention Act (Brady law), 18 U.S.C. § 922(t), when transferring a firearm to an unlicensed person.

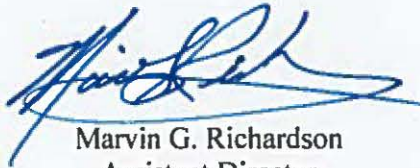
The Brady law generally requires FFLs to initiate a NICS before transferring a firearm to an unlicensed person. Nonetheless, pursuant to 18 U.S.C. § 922(t)(3), the Brady law contains exceptions to the NICS check, including an exception for holders of certain State permits to possess, carry, or acquire firearms. The law and implementing regulations provide that 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 if the applicant is a non-U.S. citizen, the check must also include an IAQ check, and must deny a permit to anyone prohibited from possessing firearms under Federal, State, or local law. In order for the issuing authority to perform an IAQ check, each non-U.S. citizen applicant must provide the following information: date of birth; country of birth; and alien number or alien admission number. Otherwise, the required NICS check would be incomplete, and the state permit would not qualify as an alternative to a NICS check.

On April 28, 2017, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) published an Open Letter to all Minnesota Federal firearm licensees (FFLs) stating that a valid Minnesota State Permit to Carry could be used as an alternative to initiating a National Instant Criminal Background Check System (NICS) background check prior to transferring a firearm to an unlicensed person. This guidance was issued with the understanding that a complete NICS check was run on all permit applicants. This guidance is no longer valid. Minnesota's State Permit to Carry application form does not currently require non-U.S. citizens to provide the information necessary to run an Immigration Alien Query (IAQ) check at the time the NICS check is performed. Therefore, Minnesota's Permit to Carry cannot be an exception to the background check requirement pursuant 18 U.S.C. § 922(t)(3), and this permit cannot be used by a purchaser nor accepted by an FFL as an alternative to a NICS background check.

The Open Letter issued to All Minnesota Federal Firearms Licensees on April 28, 2017 by ATF is rescinded as of the date of this letter. All Minnesota Federal Firearms Licensees are required to conduct a NICS background check prior to the transfer of a firearm to a non-licensee even if

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that person presents a valid Minnesota Permit to Carry. If you have any questions about this Open Letter, please call ATF's Firearms Industry Programs Branch at (202) 648-7190.

A handwritten signature in blue ink, appearing to read "Marvin G. Richardson", with a stylized flourish at the end.

Marvin G. Richardson
Assistant Director
Enforcement Programs and Services