



## U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

Washington, DC 20226

May 30, 2008

### **Open Letter to All Nevada Federal Firearms Licensees**

The purpose of this letter is to advise you of an important change to the procedure you must follow beginning July 1, 2008 in order to comply with the Brady Law, 18 U.S.C. § 922(t).

Beginning July 1, 2008, Nevada's Carry Concealed Weapon (CCW) permits will no longer qualify 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 (or the State in a Point of Contact State) 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 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 Nevada Federal firearms licensees (FFLs) advising them that the Nevada carry concealed weapons permit would qualify as an alternative to the background check required under the Brady Law. ATF's recognition of these permits as a Brady alternative was based on the fact that Nevada conducted background checks through NICS prior to the issuance or renewal of these permits, and denied a permit to anyone prohibited under Federal, State, or local 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 Nevada State officials that Nevada no longer met the qualifications. Nevada was not able to adequately address the deficiencies of the Nevada CCW permit in meeting the statutory and regulatory requirements for qualifying as a NICS alternative.

Accordingly, on October 17, 2005, we sent an open letter to Nevada FFLs stating that effective October 19, 2005, the CCW permit no longer qualified as a NICS check alternative.

Subsequently, the Nevada Department of Public Safety and the Nevada County Sheriffs entered into a Memorandum of Understanding addressing the Nevada CCW shortcomings in qualifying as a NICS alternative. This Memorandum of Understanding was accepted by ATF as an interim measure until the shortcomings in qualifying as a NICS alternative could be remedied by the Nevada State Legislature in 2007 session. Accordingly, on January 5, 2006, we sent an Open Letter to Nevada FFLs stating that the Nevada CCW permit again qualified as a NICS check alternative.

The Nevada State Legislature did not enact laws in the 2007 session necessary to remedy the shortcomings of the Nevada CCW permit in qualifying as a NICS check alternative. Specifically, the carry concealed weapons permit can no longer qualify as an alternative to the background check required by the Brady Law.

### **How This Affects FFLs**

Beginning July 1, 2008, a NICS check must be conducted before transferring a firearm to an unlicensed person, even if the unlicensed person has a Nevada carry concealed weapon permit. Because Nevada is a NICS Point-of-Contact State, you will contact the Nevada Department of Public Safety, rather than the FBI, to conduct this check.

We hope that your transition to this new procedure on July 1, 2008, will not be an inconvenience. As always, we thank you for your cooperation.

A handwritten signature in black ink, appearing to read "Audrey Stucko". The signature is fluid and cursive, with a long horizontal stroke at the end.

Audrey Stucko  
Acting Assistant Director  
(Enforcement Programs and Services)