



FIREARMS DIVISION
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Facsimile: (916) 227-3700

August 3, 2004

TO: INTERESTED FEDERAL FIREARMS LICENSEES AND CALIFORNIA FIREARMS DEALERS

RE: Interim Department of Justice Entertainment Firearms Property Transfer Clearance Process

Dear Firearms Licensee:

In accordance with the Brady Handgun Violence Prevention Act (Brady), the California Department of Justice (DOJ) has created an interim program to conduct firearms eligibility background checks on prospective entertainment industry loan transferees seeking temporary firearm loans for use as props in entertainment productions. The interim process will remain in place until superceded by pending legislation. Although such entertainment loans by Federal Firearms Licensees (FFLs) who are not California Firearms Dealers (CFDs) are exempt from background check requirements using California's Dealer Record of Sale (DROS) system pursuant to Penal Code section 12078(s), they are not exempt from the background check requirements of the Brady Act under 18 U.S.C. 922(t).

The interim DOJ background check program will allow FFLs who are not CFDs and who temporarily loan firearms to the entertainment industry (Entertainment FFL's) to comply with the Brady requirement that firearm transferees undergo firearms eligibility background check without the need for a 10-day waiting period to complete transactions as required by California's DROS system. CFDs may also avail this interim program to temporarily loan *non-inventory* firearms to the entertainment industry in compliance with Brady requirements. *Please remember that, pending new legislation, CFD inventory firearms remain subject to all DROS requirements with respect to entertainment loans.* This interim program will continue until DOJ can implement a permit program for members of the entertainment industry that will satisfy Brady requirements without the need to obtain transferee firearms eligibility clearances by DOJ with every entertainment transaction.

As with all FFL's, participants in the interim DOJ background check program are responsible for understanding and complying with the federal Gun Control Act of 1968, as amended, Brady, 28 C.F.R. Part 25, other applicable provisions of law or regulation, and other pertinent policies, procedures, or guidance as have been or may be established by the Federal Bureau of Investigation (FBI) or by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Additionally, because the interim DOJ background check program will rely heavily on information provided through the FBI's National Instant Check System program (NICS),

participating Entertainment FFL's must also comply with federal restrictions pertaining to the use of that system. Specifically, an FFL may use the NICS solely for the purpose of obtaining information on whether receipt of a firearm by a prospective transferee would violate federal, state or local law. Accessing or using the NICS, or permitting such access or use, for any unauthorized purpose may result in criminal prosecution, a civil fine of up to \$10,000, and/or revocation of the privilege to access NICS.

For your convenience, please find attached the interim DOJ background check process rules for participating CFDs/FFLs. Please review this carefully before submitting any participation documents to DOJ. FFLs who are not already a California Firearms Dealer (CFD) must enroll with DOJ prior to participating in this program. *California Firearms Dealers with a valid CFD number do not need to apply for this program as they are already considered enrolled; CFDs may commence submitting background check requests.* Please note that both CFDs and FFLs may not request a background check unless the customer has first completed an ATF Form 4473. Background clearance responses received from the DOJ are to be retained with the Form 4473 and are subject to inspection.

The entertainment loan background check fee is \$20, and the CFD/FFL is responsible for remitting this fee, payable to DOJ, after the check has been completed. The entertainment background check enrollment form and entertainment firearms loan background clearance request form can be found on the Firearms Division web site at <http://caag.state.ca.us/firearms/>.

As noted above, this program is intended merely as an interim means of allowing CFDs and Entertainment FFL's to serve the entertainment industry until DOJ can fully implement a permit program that will allow Entertainment FFL's to loan firearms to permit holders without conducting a background check.

Please feel free to contact the Firearms Division at (916) 263-4887 with any questions regarding the implementation of this background check program.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Rossi", written in a cursive style.

RANDY ROSSI, Director
Firearms Division

For BILL LOCKYER
Attorney General

Attachments

ATTACHMENT
DOJ INTERIM ENTERTAINMENT FIREARMS TRANSFER BACKGROUND CHECK PROCESS

California Firearms Dealers and Federal Firearms Licensees system must comply with the following in order to participate in the interim DOJ entertainment firearms transfer background check process:

1. FFLs who are not California Firearms Dealers should immediately submit a copy of the attached *Application to Enroll for Entertainment Firearms Loan Background Check Program* via facsimile to the following facsimile number: (916) 227-3700
2. Keep copies of the attached *Entertainment Firearms Loan Background Check* form in a convenient location for use as needed. This form can also be downloaded from the Firearms Division web site at <http://caag.state.ca.us/firearms/>.
3. Customers wishing to receive a loaned firearm must first complete an ATF Form 4473 as required by federal law. If the customer states on the Form 4473 that he/she is prohibited, then the CFD/Entertainment FFL should end the transaction and not contact DOJ.
4. If there are any problems with the Form 4473, the firearms licensee should continue to follow established ATF procedures regarding this form. Please consult ATF's website or contact your local ATF Field Office if further guidance is required.
5. For each occasion where a CFD/Entertainment FFL wishes to loan firearms to a customer, the licensee should complete a copy of the attached *Entertainment Firearms Loan Background Check* form and submit it via facsimile to facsimile number (916) 227-3700. The CFD/Entertainment FFL shall also indicate a return facsimile number.
6. Upon receiving a completed background check form, DOJ will conduct a firearms eligibility review by submitting an inquiry to NICS, as well as California state records. Once DOJ has completed its review, it will notify the CFD/Entertainment FFL of one of three possible results: Proceed, Deny, or Delay. The notification will also provide you with a NICS Transaction Number (NTN), which you must record on the Form 4473.
7. If DOJ provides the CFD/Entertainment FFL with a "Proceed" response, the CFD/Entertainment FFL may proceed with the loan transaction at its earliest convenience. If the result is "Delay," the CFD/Entertainment FFL may not proceed until either three business days have passed (as required by Brady) or DOJ notifies the FFL that it may proceed. If the result is "Deny," the Entertainment FFL may not loan the firearm(s) to the customer.
8. If the result is "Deny," the customer may choose to appeal the decision. The customer may call DOJ directly at (916) 227-3697 to obtain further information regarding appeals procedures that are compliant with FBI and California DOJ appeals procedures.