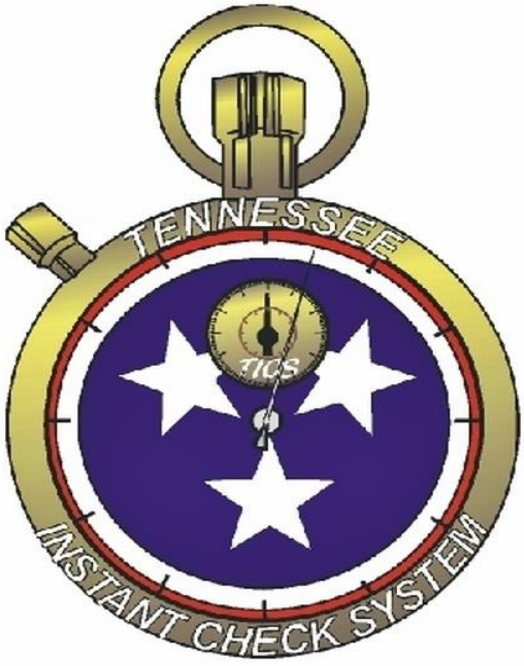
# TENNESSEE BUREAU

# OF INVESTIGATION




# GUIDELINES FOR FEDERAL

# FIREARMS LICENSEES

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## INTRODUCTION

This publication is intended to provide Tennessee Federal Firearms Licensees (FFLs) with guidance on the Tennessee Bureau of Investigation's implementation of the Tennessee Instant Check System ("TICS"). It is the intention of the TBI to administer a program that will implement Federal and State laws designed to keep firearms out of the hands of individuals legally precluded from possessing them. TBI also intends to administer the background check process in such a way as to provide a quicker, less burdensome, and more comprehensive check.

Federal law (more specifically, the "Permanent Provision" of the Brady Handgun Violence Prevention Act) requires that a background check be conducted before any firearms (long guns as well as handguns) can lawfully be transferred to a non-FFL on or after November 30, 1998. The purpose of the check is to determine if transfer of the firearm would violate 18 United States code §922 (g) or (n) or State law. This "instant check" was facilitated by the creation of the National Instant Criminal Background Check System (NICS) administered by the Federal Bureau of Investigation at its Criminal Justice Complex in Clarksburg, West Virginia. The Tennessee General Assembly amended Tennessee Code Annotated, Title 39, Chapter 17, Section 1316, to make the TBI the point of contact (POC) for Tennessee firearms instant checks. A copy of the State law, as amended, can be found herein. The law created a new unit within TBI, called the TBI Instant Check System (TICS), and placed it under the Information Systems Division of the TBI. TICS is the focal point of all approvals and denials of requests for transfer of firearms in the State of Tennessee. The purpose of the TICS is to immediately allow or deny a firearm transfer based on information obtained from nationwide and instate data sources as permissible and required under Federal and State law. ***However, immediately does not mean instantaneously, as computerized background checks rely on many different pieces of hardware, software programs/applications and phone lines which must all be working together in order to provide speedy processing of background checks. Additionally, approximately six (6) percent of all background checks result in some kind of record being located and requires a review which can take a considerable amount of time if the record is lengthy or missing information necessary to the decision making process or it is confusing.***

The Tennessee Instant Check Law became effective November 1, 1998. After that date all transfers of firearms as defined in the State and Federal laws require approval from the TBI TICS Unit. Amendments passed since that date are included in the law included in this guide pamphlet. The TICS Unit works closely with all Tennessee FFLs to manage this program in a manner which will minimize any impact on their businesses and provide the most thorough background search possible to ensure that persons not permitted to receive firearms under State and Federal law are identified and denied legal access to firearms. Most questions concerning the law can be answered by reading these guidelines and the attached legislation.

Questions not answered in these guidelines should be addressed to the Tennessee Bureau of Investigation, ATTN: TICS Unit, at the address provided herein, or you may call the TICS Unit during the hours of 8:00 a.m. to 10:00 p.m. CST at (615) 744-4620 and asking for the Unit Manager or one of the on-duty CHE 3 (Criminal History Examiner 3).

SUMMARY

The most significant changes to the law affecting sales and transfers of firearms may be summarized as follows:

The fifteen-day waiting period between purchase and delivery of a handgun was eliminated effective November 1, 1998. Approved transactions allow immediate transfer of the firearm.

With the exceptions of "transactions between persons licensed as dealers under18 U.S.C. 923," "transactions or transfers between a licensed importer, licensed manufacturer, or licensed dealer and a bona fide law enforcement agency or agency's personnel," and an "occasional sale of a used or second hand firearm," all transfers of firearms as defined in 18 United States Code § 921, both long guns and handguns, require a background check in the NICS databases. Tennessee law requires a check of state files maintained by TBI. Both checks are performed by the TICS Unit acting as the POC for the federal firearm licensees (gun dealers), hereinafter known as FFLs.

Pawnshop transfers, both sales and redemptions, are included in the requirement for a background check in both the State and Federal legislation.

After November 1, 1998, local Chief Law Enforcement Officers (sheriffs and/or chiefs of police) cannot be contacted for approval of sales or transfers.

FFLs must receive specific approval, including a unique TICS transaction number, prior to delivery of a firearm. That transaction number must be recorded on the ATF Form 4473.

FFLs may contact the TICS Unit for background checks by calling toll-free 7 days a week, from 8:00 a.m. to 10:00 p.m. CST at 1-877-GUN-CHEK (1-877-486-2435). The only exceptions will be Christmas Day, Thanksgiving Day, and Independence Day (July 4th), when the TICS Unit will be closed and no transactions can be conducted. **FFLs may also utilize a personal computer and their Internet/WorldWideWeb connection to log on to TICS and run the background checks from their business locations. The website is: https://tbibackgrounds.tbi.tn.gov/Tics/**

Notice of DENIAL of a requested transfer will be given to the FFL without a specific reason for the denial being provided to the FFL in compliance with federal law.

The denied recipient may challenge the denial by submitting an APPEAL OF DENIAL OF ATTEMPTED FIREARM TRANSFER form (found herein) and supplying all information requested on the form, including the transaction number (obtainable from the FFL). All information must be legible and submitted within 30 days of the DENIED status being reported to the purchaser. If the denied purchaser fails to submit the form within the 30 days, the appeal rights are no longer valid.

**ACCOUNT INFORMATION FORM**

The ACCOUNT INFORMATION FORM is used to inform TICS of the necessary information for the establishment and maintenance of an account with TICS. This form is to be completed by the FFL or his/her designee and sent to TICS with a legible copy of the federal firearm license in order to register with TICS and establish an account to do the required background checks through TICS and NICS. It is the sole responsibility of the FFL to keep TICS apprised of any changes in ownership, business premises location, telephone/fax numbers, e-mail addresses, business hours, mailing and/or billing addresses, official name of the business (as found on the license) and to provide TICS with copies of renewed licenses or Letters of Authorization (LOA's) for the continuation of business. This information is not routinely furnished to TICS by any other party, nor is it the responsibility of any other agency to keep TICS informed of such changes. **Failure to keep TICS informed MAY result in the FFL's account being closed and access to the TICS/NICS being denied. Tennessee Bureau of Investigation.**

**Account Information Form**
**Tennessee Bureau of Investigation**
**Instant Check System**
**Account Information Form**

Federal Firearms License Number:_____
(A segment of this number changes every three years. If your license expires, an entirely new number may be assigned by the ATF.)

Password:_____
**(Minimum of 6 and maximum of 8 alpha and/or numeric characters - No profanity)**

Name of Owner/Operator:_____

Business Name on License:_____

Business Address:_____

_____

Business Phone Number:_____
(Primary Number) (Secondary Number)
Business Fax Number:_____
(Only if different from your phone number and on a direct line.)
E-mail Address :_____

Business Hours:_____
(TICS' hours of operation are: 8am-10pm, seven days per week.)

Days Closed :_____
(TICS is closed on July 4th, Thanksgiving and Christmas days only.)

Holidays Closed:_____

Billing Address :_____
(If different from business address)

_____

**IMPORTANT: Attach a legible copy of your federal firearms license to this form to verify your eligibility to establish an account. All information should be typed or legibly printed in black ink. Illegible information will cause rejection of the form**.
Signature of Licensee _____ Date _____

BI-0162 RDA PENDING

ADDICTION TO ALCOHOL

Tennessee law (TCA 39-17-1316(a)(1) added the following disqualification for firearm transfer to the list of prohibitors found in federal law: "…..sales to persons who are addicted to alcohol and sales to persons ineligible to receive them under 18 U.S.C. section 922 are prohibited." Alcohol is hereby defined as: any distilled spirits, wine, or malt beverages. TICS uses the same standards for determining addiction to alcohol as are used for dangerous drugs/controlled substances:

- A person who uses alcohol, as defined above, and has lost the power of selfcontrol with reference to the use of alcohol; or
- A person convicted for use or possession of alcohol within the past year, or
- A person with multiple arrests for use or possession of alcohol within the past five years if the most recent arrest occurred within the past year; or
- A person found through a blood alcohol test (BAT) or Breathalyzer Test to be under the influence of alcohol if the test was lawfully administered and within the past year; or
- A current or former military service member who received recent disciplinary or other administrative action based on confirmed alcohol use (e.g., court-martial conviction, non-judicial punishment, or an administrative discharge based on alcohol abuse or alcohol rehabilitation failure).

A person may be an unlawful current user of alcohol even though the alcohol is not being used at the precise time the person seeks to acquire a firearm or receives or possesses a firearm; rather, the unlawful use only needs to have occurred recently enough to indicate that the individual is actively engaged in such conduct.

ADDRESSES & PHONE NUMBERS

TICS MAILING ADDRESS Tennessee Bureau of Investigation
Attn: Instant Check Unit
901 R. S. Gass Blvd.
Nashville, TN 37216-2639
877 486-2435 (Toll Free)
615 744-4620
615 744-4660 (fax)

BILLING ADDRESS Tennessee Bureau of Investigation
Attn: Fiscal Services Unit
901 R. S. Gass Blvd.
Nashville, TN 37216-2639
615 744-4142 or 4145
615 744-4651 (fax)

BATF & E FIREARM LICENSING CTR Bureau of ATF & E
Federal Firearms Licensing Center
244 Needy Rd.
Martinsburg, WV 25405
1-866 662-2750 (Customer Service)
304 616-4600

Note: For renewals and new applications for a federal firearms license, the application and fee must be sent to the following address:
Bureau of ATF & E
Attn: License Application & Renewal
P.O. Box 409567
Atlanta, GA 30384-9567

BATF & E INDUSTRY OPERATIONS Bureau of ATF & E
Ind.Operations-Nash. Field Office
302 Innovation Drive, Suite 300
Franklin, TN 37067
615 565-1400
615 565-0525 (fax)

ALIENS & FOREIGN VISITORS – ATTEMPTED PURCHASES

Illegal Aliens

If a purchaser answers YES to question 11(k) on the ATF form 4473, the FFL should immediately stop the transaction and deny the transfer without contacting TICS.

Non-immigrant Aliens

A non-immigrant alien generally may not purchase firearms in the U.S., but there are TWO exceptions stated on ATF form 4473 under "Important Notices", #4, Exception 2. If the purchaser answers YES to question 11(l), the FFL should ask for the purchaser's Alien Registration number ("A" number) and follow up with a close scrutiny of any information provided in answer to question 13. The "A" number should be recorded in the provided block(s) under number 15 of the ATF form 4473. An alien legally in the U.S., who has been admitted into the country under a non-immigrant visa, is generally prohibited from receiving or possessing firearms and an FFL may not transfer firearms to such aliens. It should be noted that Section B of the form 4473 has two places (questions 20b and 20c) for the FFL to record information about the type of identification furnished by aliens and nonimmigrant aliens. Also, FFLs should be extremely careful in examining any Tennessee Driver's License submitted as identification. Be sure the document is an actual driver's license instead of the new Tennessee Driver's Certificate.

NOTE: FFLs who use the Internet Web Access to run their TICS checks must call in any transactions to TICS which involve non-immigrant aliens so that TICS can run the separate check through ICE.

Foreign Visitors

A foreign visitor is not a resident of a State and may not purchase and take delivery of a firearm in the United States. A foreign visitor may purchase a firearm and have it exported by an FFL. The FFL must obtain an export license from the U.S. State Department for this type of transaction.

An alien legally in the U.S. would have a State of residence and may acquire firearms in that State only if he or she is residing in that State and has resided in that State continuously for at least 90 days prior to the purchase. FFLs should require alien purchasers to prove their identity and residency by presenting government-issued photo identification and substantiating documentation showing that he or she has resided in the State continuously for the 90-day period. For substantiating documentation see Appendix E herein.

If the "A" number, or any other number assigned by the U.S. Immigration and Customs Enforcement (ICE), is provided to TICS by the FFL, and the FFL notifies TICS that the person is an alien or non-immigrant alien, TICS will check the status of the alien with ICE when running the TICS/NICS check and will NOT provide an approved or denied transaction status until a response is received from ICE. FFLS should NOT utilize their Internet/World Wide Web connection to run the background checks on such purchasers, but should instead call TICS to have the check run by a TICS Call-Taker.

ANTIQUE, BLACK POWDER & MUZZLE LOADER FIREARMS

FFLs should know the federal and state law, and the ATF rules and regulations regarding these type of firearms. Do not call TICS with questions about whether a TICS/NICS check should be run on a person wishing to purchase one of these firearms. For information, refer to page 6, "Federal Firearms Regulations Reference Guide", Title 18 U.S.C., Chapter 44, § 921(a)(16) and Appendix A, herein, TCA 39-17-1316(b)(1).

APPEALS OF DENIED FIREARM TRANSFERS

Persons who are denied a firearm transfer (whether by purchase or pawn redemption) should be given an appeal form (see below) by the FFL and furnished with the transaction number for the denied transfer. The FFL may transmit a completed appeal form to TICS via fax for his/her customer, but is not required to do so – submission of the appeal form is the sole responsibility of the denied person. The denied person has 30 days in which to submit the written appeal form. After 30 days, the denied person has no appeal rights. Therefore, the denied persons should be advised by the FFL to promptly file the appeal. Once TICS receives the appeal form, a 15 calendar day time limit "clock" begins running. TICS has 15 calendar days after receipt of the appeal form to research the denial and seek missing information or clarification from the arresting agency, clerks of court, judges and prosecuting attorneys. If the information being sought by TICS is not forthcoming or obtainable at the end of the 15 days, the transaction must be placed into "CONDITIONAL PROCEED" status.

**Tennessee Only**

**Dealer Name & FFL#:** _____

**APPEAL OF DENIAL OF ATTEMPTED FIREARM TRANSFER**

**Your Name:** _____ **Sex:** **Race:** _____

**(PRINT your complete first, middle and last name in correct order)**

**Date of Birth:** _____ **Social Security #:** _____

**(Month, day, year)**

**Requester's Mailing Address:** _____

_____

**Requester's Physical Address:** _____

_____

**TICS Transaction #:** _____ **Requester's Phone #:** _____

**(Obtain from your gun dealer)** **(Inc. Area Code)**

**Date Transaction Run:** _____ **Date Transaction Denied:** _____

**I have been denied by TICS the right to purchase a hand gun or long gun in the State of Tennessee based on a check by my gun dealer through the Tennessee Instant Check System (TICS) and the FBI National Instant Criminal Background Check System (NICS). I hereby appeal that denial and request a review of the record(s) used by TICS in determining that I should be denied the purchase. I understand that I may be required to provide TICS a full set of inked fingerprints of myself for the purpose of comparing them with fingerprints associated with the record(s) used in the denial. I also understand that I only have 30 days to appeal the denial after it is issued and that TICS is not required to assist me until such time as I formally appeal the denial. I further understand that the transaction could be denied by my gun dealer (FFL) and that under such circumstances, TICS neither denied nor approved my firearm transfer and therefore I have no appeal to TICS. I further understand that failure to complete this form or to complete it legibly could result in rejection of the form.**

**(Signature of Requester)** _____ **(Date)** _____

**See instructions on reverse side. Return by fax to: (615) 744-4660**

**BI-0165 RDA Pending** _____ **Rev. June 2009**

**Instructions for completing the APPEAL OF DENIAL form**

The following procedure should be carefully followed to challenge a denied firearms transfer background check:

1. If your transaction was denied by TICS (not your gun dealer) obtain your unique Transaction Number from your FFL (dealer). Legibly print the Transaction Number in the appropriate place on the reverse side of this form. Legibly print the other required information on the form. Include your complete phone number and current mailing address . Make a copy of the form and retain it for your file or future use. You may mail the form to:

TICS Unit
Tennessee Bureau of Investigation
901 R. S. Gass Blvd.
Nashville, TN 37216-2639

2. You may also send the form by facsimile (FAX) to (615) 744-4660. It should be sent promptly so as to allow TICS ample time to contact the necessary law enforcement agencies and/or clerk's offices and review any documentation they may provide. Do not attempt to hand carry your appeal to the above address in order to obtain same day service. Do not submit any documentation with this appeal form—all documentation MUST come to TICS from the original source agency. By law TICS has 15 calendar days to research and review your attempted firearm transfer after the appeal is received. However, if more than 30 days elapse after the initial denial of transfer and you have not appealed, your appeal will not be handled and you will need to begin again with a new attempt to purchase, denial and appeal.

3. Upon receipt of your appeal form, TICS reviews the documentation used to make the denial. TICS contacts the arresting agency and requests a final disposition of any "open" charges showing on your criminal history record. TICS may also contact the clerk of court and the state bureau of investigation's state records keeping unit for final disposition information if it is unavailable from the arresting agency. If TICS is able to obtain a final disposition or other required information, your FFL will be notified of any change of status for the transaction. You will need to keep in contact with your gun dealer to see if your appeal has been overturned. If TICS is unable to obtain the final disposition or other necessary information. TICS will place your transaction into "CONDITIONAL PROCEED" status and advise your dealer by the most expedient means available (e-mail, fax or postal mail). Your dealer has the option of transferring the firearm to you or not transferring the firearm, but is not obligated to transfer any firearm to you.

4. If your dealer refuses to transfer a firearm to you based on a "CONDITIONAL PROCEED" status received from TICS, you were not denied by TICS and have no avenue of appeal to TICS. However, TICS will assist you further by providing you with a form letter to appeal the FFL's denial by seeking assistance of the FBI NICS Appeals Services Unit in correcting your criminal history record. Do NOT return such a letter to TICS – it is to be sent to the FBI NICS. Criminal history records maintained by other states or by the FBI cannot be corrected or modified by TICS. That is the responsibility of each individual state and of the original arresting agency. It is your responsibility to see that TICS is notified by any out-of-state or federal agency upon correction/modification of your criminal history record that would effect the original denial decision made by TICS.

AUCTIONS (3 types)

Consignment Auctions

The auctioneer usually takes possession of firearms in advance of the auction and generally inventories, evaluates and tags the firearm(s) for identification. The firearms belong to individuals who have entered into a consignment agreement with the auctioneer giving that auctioneer authority to sell the firearms. The auctioneer has possession and control of the firearms. Under these circumstances, an auctioneer would generally need a license. An auctioneer who buys firearms for purposes of resale also needs a license. See ATF Rule 96-2, 18 U.S.C. section 923(a) for additional information or contact your local ATF office.

Estate Auctions

The firearms being auctioned are being sold by the executor of the estate of an individual. The firearms belong to and are possessed by the executor. The auctioneer is acting as an agent of the executor and assisting the executor in finding buyers for the firearms. The estate controls the firearms and the sales are being made by the estate. The auctioneer does not meet the definition of engaging in business as a firearm dealer and does not need a license. However, an auctioneer who has a FFL may perform this function away from his or her licensed premises.

Law Enforcement Agency Auctions

Sheriff's departments and other law enforcement agencies frequently have an auction of firearms they have seized during arrests and investigations of crimes. These firearms are often awarded to the law enforcement agencies by the courts. Many of them, being considered cheap, "Saturday Night Specials" are destroyed, but the better firearms are often auctioned off. Law enforcement agencies are not prevented by state law or the Brady Bill from selling/auctioning these firearms and do not have to run the Brady checks in NICS. In fact, law enforcement agencies may not run their own background checks through the FBI's NCIC, III and NICS databases or the TBI's criminal history database. However, nothing prohibits a law enforcement agency from consigning their firearms to an auctioneer or other firearm dealer with a FFL and letting that licensed dealer handle the transfer by doing a TICS/NICS check on the purchaser.

Firearms may be displayed at an auction site away from the auctioneer's licensed premises and sales of the firearms can be agreed upon at that location, but delivery may only be made to purchasers after the firearms have been returned to the auctioneer's licensed premises. The simultaneous sale and delivery of the auctioned firearms away from the licensed premises would violate the law, i.e., engaging in business at an unlicensed location.

However, if the auctioneer is assisting an estate dispose of firearms, the estate is the seller of the firearms, and the estate is in control and possession of the firearms, the firearms would not have to be returned to the licensed premises prior to their delivery. (see pp. 134-135, Rule 96-2 "Federal Firearms Regulations Reference Guide – 2005")

**Auctioneers who have a large number of firearms to auction off at a particular sale should notify TICS at least a week in advance of the auction. This gives the FFL- Dealer time to run a NCIC Stolen Firearm Query via TICS Website on each gun prior to the auction.**

BACKGROUND CHECK (TICS/NICS CHECK) REQUIREMENTS

The following instructions must be followed precisely to ensure that firearm sales are properly conducted as required by law. The FFL must complete the following steps in order to conduct the background check on the potential firearm recipient:

All FFLs must establish an account with the TICS Unit for billing, communications, and return contact information purposes. This must be done in advance by submitting a completed TICS Account Information Form (See Appendix B) with a legible copy of your Federal Firearms License attached to:

Tennessee Bureau of Investigation
ATTN: Instant Check Unit
901 R. S. Gass Blvd.
Nashville, TN 37216-2639

If the account has not been established prior to your first call, you will be required to send a legible copy of your FFL to the TICS Unit before the transaction may proceed. A legible copy of your FFL and a new Account Information Form must be submitted to the TICS Unit each time your FFL is renewed by the ATF, and the forms must be submitted before the expiration date on your license. The license and Account Information Form may be sent to TICS via U.S. Postal Service, or by fax to: 615 744-4660 (send on high resolution please) or by an e-mail attachment to: tbi.tics@tn.gov

If there is a risk of unauthorized persons using your FFL number and password to request TICS checks, you are encouraged to limit knowledge of your password to yourself and your representative(s) who will be requesting checks on your behalf. You can decrease the likelihood of others guessing your password by avoiding use of names, terms, dates, or numbers that could be easily associated with yourself, your business, or family. The most secure passwords are random combinations of letters and numbers.

1. When an employee or individual's duties no longer require that they request TICS checks, you may wish to assign a new password to prevent that individual's continued access to the TICS. The primary owner/operator listed on the Account Information Form must be the person to advise TICS of a change of password. You must fill out a new Account Information Form. Obscene or objectionable passwords will not be permitted. If an obscene or objectionable code word is provided on the Account Information Form, you will be contacted and requested to change the password in order to gain authorized access to TICS services.

2. Obtain identification from the potential recipient which meets all requirements of state and federal law, including:
One piece of current, valid identification bearing a photograph (even for those over the age of 60) and the date of birth of the purchaser that:
(A) Is issued under the authority of the United States Government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and
(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.
If the identification presented by the purchaser does not include the current address of the purchaser, the purchaser shall present a second piece of current identification, which contains the current address of the purchaser. (See additional listing of acceptable ID documentation herein).
3. Complete the ATF 4473 form and obtain the signature of the potential recipient on the form.
4. Call toll free 1-877-GUN-CHEK (1-877-486-2435) or log on to the TICS WebAccess site (https:www.tbibackgrounds.com/tics) and identify your business with the last 5 digits of your FFL number and your password. The phone number is for TICS checks only and should not be given out to the general public. Provide the following information in the order listed.
Potential Recipient Information
Name – LAST, First and Middle (middle name is important)
Race – Black (B), American Indian or Alaskan Native, Asian or Pacific Islander (I), White (W) which includes Latin American and Hispanic, and Unknown (U).
Sex – Male (M) or Female (F) Date of Birth – Month, day and year (MMDDYY)
Place of Birth – The state where potential recipient was born.
State of Residence – The state where potential recipient currently lives.
Social Security Number – Solicitation of the number is required by TCA 39-17-1316 but provision of the number by the potential recipient is voluntary. Use of this number will greatly decrease the chances that false-positive “hits” against same/similar names and dates of birth will be returned, resulting in a denial. It is in the interest of the potential recipient to supply this number. It is not retained by the TICS Unit on approved transfers and is only used for identification purposes. For further information, see pp. 136-137, 27 CFR 178.124: FIREARMS TRANSACTION RECORD, ATF Rule. 2001-5, in the “Federal Firearms Regulations Reference Guide -2005” and TCA 39-17-1316 (c) (4)(G) herein. Address – This must be a complete street address. A Post Office Box or a Route/Box combination is not acceptable – the purchaser does not LIVE at a Post Office Box.
Identification – Identify the type of identification given and any applicable ID numbers. (Example: Tennessee Drivers License – Drivers License Number)
Firearm Information

Make – Example: Beretta, Browning, Colt, etc.
Model – Example: Single Six (Ruger), 66-2 (Smith & Wesson), etc.
Type – Example: Revolver, Single-Shot, Pump, Semi-Automatic, etc.
Caliber – Example: 38 Special, .357 (Magnum), 9 mm, etc.
**Serial Number – Please do not provide a manufacturer's inventory or shipping number from the box – obtain the serial number directly from the firearm. Do NOT use hyphens (dashes) or any other special characters to record the serial number.**
FFLs will receive one of the following responses:
Approved
Background searches have been completed and no disqualifying information has been found. APPROVED status will be furnished to FFLs by phone if the transaction has been taken by phone call to TICS, or will be returned to the FFL via the Internet if the transaction was run on the WebAccess system. Upon receipt of the unique transaction number the FFL must place the transaction number in the correct field on the ATF Form 4473 and retain the form for a period of not less than five years. If the transaction was run on the WebAccess system, it is recommended that the FFL print the response from TICS and attach it to the form 4473.
Denied
Background searches have been completed and sufficient information has been identified to determine that the transfer of the firearm would violate 18 United States Code § 922 (g) or (n) or State law. The FFL must terminate the transfer of the firearm upon notification of a denied transfer by TICS. Upon receipt of the denied transaction number the FFL must record the transaction number on the ATF Form 4473 in the appropriate field (box) and retain the record for a period of not less than five years. The denied purchaser has the right to challenge (appeal) the denial. (See APPEALS) The standard appeal form (BI-0165, "Appeal of Denial of Attempted Firearm Transfer") is furnished free of charge to Tennessee FFLS by TBI/TICS. It should be made immediately available to the denied purchaser along with the transaction number. Instructions for completing the form are printed on the reverse side of the form, along with the mailing address and fax number for the TICS Unit. The denied person should be informed by the FFL that the form should be completed and sent to TICS immediately and the FFL may assist the purchaser by transmitting the fax to TICS as a customer service.
Pending
A pending response indicates that automated responses to the TICS/NICS inquiries have been delayed, not allowing an approved or denied response. Causes for a delay could be hardware or software problems at either the State or Federal level, convictions needing review by TBI legal staff, or other reasons that will not allow a response within a reasonable time with the caller (FFL) on hold. Transactions run on the Web Access system and which go into pending, will automatically be sent to the FFL's computer via the Internet only if approved –all denied transactions run on the Web Access system will require a telephone call back to the FFL by TICS personnel.

If the transaction has been run by calling it in on the toll-free telephone number, the TICS Unit will notify the FFL of the response (at the phone number supplied in the original request). TICS Unit personnel will make at least three attempts to contact the FFL by telephone within the federally mandated three business day time frame for transaction final disposition. If the FFL is not contacted by the TICS Unit within three business days, the FFL should call the TICS Unit. A business day is described as 24 hours beginning at 12:01 a.m., exclusive of the day on which the transaction takes place, and excluding weekends, and holidays. If TICS Unit personnel are unable to reach the FFL with a decision, it is within the FFL's discretion to transfer the firearm after the three business days have elapsed. However, it should be noted that any FFL who transfers a firearm to anyone after not having received an approval status after the three business days have expired, is taking the risk of transferring a firearm to a purchaser who might, in fact, be denied. In such cases, the ATF would be required to retrieve the firearm from the denied purchaser.

If the transaction has been placed in a pending status, attach a note stating "Pending Status by State" to the completed ATF 4473 form until a final disposition for the transaction is received.

If the transaction has been placed in a pending status and the transfer takes place on a later date, the recipient must re-sign and date the ATF 4473 form at the actual time of the transfer.

If the transaction is denied, write "FIREARM NOT DELIVERED" on the ATF Form 4473 in the appropriate box.

BILLING

FFLs that have requested TICS services (background checks) receive an invoice or statement of account for all transactions run during a month. These invoices are generally mailed during the first week of the following month. Only business checks, money orders, or cashiers checks, made payable to the Tennessee Bureau of Investigation will be accepted. Payment may also be made on a month-by-month basis by credit card, but requires a call each month to the Fiscal Services Unit to complete the payment (see phone numbers below). Monthly statements may now be paid on line from the TICS Website. Log into your account go to the billing tab and then select continue with E-pay. Any account with an unpaid balance past due 45 days will be closed until payment has been received, preventing further TICS checks and therefore any further firearm transfers. **Effective September 7, 2015 - Once your account is disconnected, your account has to be paid in full in order to be reconnected. Due to the volume of disconnects each month, Fiscal will now only perform reconnects twice daily (once at 11 am CST and again at 3 pm CST). If payment is made after 3 pm CST of one day, then you will not be reconnected until 11 am CST the next business day**. All payments received will be applied to the oldest outstanding invoice first and must be paid up-to-date. **THE FFL NUMBER MUST ACCOMPANY THE REMITTANCE** in some form, preferably in the appropriate memo space. Checks returned for any reason will be subject to a $20.00 charge. The FFL number is used to identify your unique account number and ensure proper billing. All payments must be mailed to:

Tennessee Bureau of Investigation
ATTN: Fiscal Services Unit
901 R. S. Gass Blvd.
Nashville, TN 37216-2639

All telephone inquires regarding accounts in arrears should be addressed to the TBI Fiscal Services Unit at (615) 744-4142 or 744- 4048 during normal unit operational hours (8 AM – 4:30 PM, Mon. – Fri.). Do not make account inquiries to TICS because TICS has no authority to reactivate your account if it has been deactivated for nonpayment of fees. Do not send payments to the attention of TICS.

CANCELLATION OF PURCHASE – BY PURCHASER

FFLs should advise their customers prior to the customer completing the ATF form 4473, that the $10 fee for the TICS/NICS check is due (to the FFL) prior to the check being run. The purchaser should also be advised that the fee is non-refundable if the customer changes his/her mind once the TICS/NICS check is started. Therefore, a purchaser who cancels his intent to purchase, should not be refunded any fee collected for the TICS/NICS check—that fee is still payable to TBI for the service rendered.

"CARRY" PERMIT - HANDGUN

Tennessee's Handgun "Carry" Permit does not meet the requirements of the federal Brady Bill because it lacks a requirement for an annual re-check of the permit holder's criminal history, and it does not require a check through the NICS. The NICS databases contain additional prohibitors that would preclude persons from being able to purchase/carry a firearm that are not found in criminal history databases. Therefore, purchasers holding a valid Tennessee Handgun "Carry" Permit still have to have a TICS check performed when purchasing a firearm. NOTE: the handgun "carry" permit may be used as a primary source of identification for a person attempting to purchase a firearm if, and only if, it contains the purchaser's photograph, date of birth and current address. For further information, call the TN Department of Safety, Handgun Permit Office at (615) 251-5330. Handgun "carry" permits issued in other states are not valid for identification purposes when purchasing a handgun in Tennessee. Reason: federal law prohibits transfers of handguns to out-of-state purchasers. Out-of-state residents have only 30 days to surrender their out-of-state driver's license and obtain a Tennessee license, and only six months to surrender their out-of-state handgun carry permit.

CLOSURE OF BUSINESS NOTIFICATIONS

If a FFL discontinues business or the ownership is changed, the owner of the business discontinued or succeeded shall, within 30 days, furnish to the Chief, National Licensing Center, ATF, notification of the discontinuance or succession. For further instructions in this matter, see p. 69, subsection 478.127 (Discontinuance of Business) of the "Federal Firearms Regulations Reference Guide – 2005". TICS must also be notified of discontinuance or succession of business in order to post the FFL's account properly.

CONDITIONAL PROCEED STATUS

In June 2001 an amendment was passed that requires the TICS Unit to initially deny a firearm transfer if the purchaser has been charged with a crime for which, if convicted, the purchaser would be prohibited under state or federal law from purchasing, receiving, or possessing a firearm and no final disposition of the charge(s) is/are available. The decision must be appealed promptly. Upon receipt of the Appeal Form, the TICS Unit will attempt to obtain final disposition information on the charge(s). If neither the purchaser, nor the TICS Unit, is able to obtain a final disposition within 15 calendar days of receipt of the appeal form, the TICS Unit must advise the FFL that the original "Denied" decision is being changed to a "Conditional Proceed". FFLs with an e-mail address will be sent an e-mail notification with attached explanatory letter. The FFL may lawfully, at his/her discretion, transfer the firearm. Additionally, if at any point in the future, information is received by the TICS Unit that indicates the transfer should be denied or approved, the TICS Unit will call the FFL back and change the "Conditional Proceed" status to "Denied" or "Approved" status.

If the purchaser is denied, the FFL will be asked at that point if the firearm was transferred, and if the transfer was completed, the TICS Unit will immediately notify the ATF that a denied person has taken possession of a firearm. It is the responsibility of the ATF to retrieve firearms from denied persons if the "Denied" status was the result of a federal prohibitor being located. {Appendix A, TCA 39-17-1316 (o) and (p)}

SUMMARY – Conditional Proceed Status is only assigned when a person who was originally denied files an appeal and TICS cannot obtain information needed to make the decision to overturn the denial or to uphold the denial within the 15 calendar days allowed by law.

EXCHANGES

If a background check is completed and approved for a potential purchaser, and due to a defect in the purchased firearm, an exchange is requested within the 30-DAY transaction validity period, only a stolen gun check on the new firearm is required IF the firearm is being exchanged for a firearm of the same make and model as the defective firearm. The FFL will need to record the new serial number on the form 4473 and should note the details of the exchange. If a different kind of firearm is involved in the exchange, or if the exchange is from a handgun to a long gun or a long gun to a handgun, a new 4473 must be completed and a new TICS transaction and fee will be required. Any new purchase would require a TICS/NICS check.

FEES

A fee of $10.00 will be charged for each background inquiry initiated, regardless of the final approval or denial disposition. The fee is non-refundable, and that should be made known to the potential purchaser before the form 4473 is completed. This fee will be charged to the FFL's account and the account will be billed on a monthly basis. The TICS Unit recommends that these fees be placed into a special account or fund to pay your account, in full, upon billing. (See also: CANCELLATION OF PURCHASE – BY PURCHASER above)

FIREARM REPAIR AND GUNSMITHING

A background check is not required for situations when the ATF does not require the completion of an ATF 4473 form, such as for gunsmithing and gun repair. However, a gunsmith is a licensed firearm dealer and if he/she engages in the business of buying and selling firearms, the form 4473 must be completed and the TICS/NICS background check must be done.

GUN SHOWS

This NOTICE applies to activities permitted at bona fide gun shows, as defined in Title 27 of the Code of Federal Regulations, Section 478.100. Federal firearms licensees ("FFLs" or "Dealers") may only sell firearms at gun shows within the State in which their licensed premises is located.

Dealers Licensed In Tennessee

 MUST display license.

 MUST comply with all recordkeeping requirements of ATF regulations concerning acquisitions and dispositions of firearms, including the recording of the place of sale.

 MAY dispose of handguns to residents of this State only, provided that the purchaser is at least 21 years of age and all provisions of the Brady law are met.

 MAY dispose of long guns to residents of any State, provided that the purchaser is at least 18 years of age, the laws of both States are complied with, and all provisions of the Brady law are met.

 MAY dispose of firearms to any FFL.

 MAY acquire firearms from any FFL licensed in the State and from any non-licensed individual.

 MAY take orders of any firearm from a non-licensee and ship the same to a licensee in the purchaser's State of residence from whom the purchaser can then take possession after the provisions of the Brady law are met.

Dealers Not Licensed In Tennessee

 MUST display license.

 MUST comply with all ATF recordkeeping requirements concerning the acquisition of firearms.

 MAY acquire firearms from any FFL licensed in this State and from any non-licensed individual.

 MAY make a sale and deliver curio and relic firearms to any other FFL licensed in any State as long as the laws of both States are complied with.

 MAY ship curio or relic firearms from this show to any other FFL.

 MAY display and take orders.

Non-Licensed Residents Of Tennessee

 MAY acquire longguns or handguns from FFLs licensed in this State, provided all provisions of the Brady law are met.

 MAY dispose of personal firearms to any FFL.

 MAY acquire from and dispose of personal firearms to non-licensed residents of the State. However, non-licensed individuals may not be engaged in the business of dealing in firearms without a Federal firearms license.

 CANNOT acquire from or dispose of firearms to non-licensed residents of any other State.

 CANNOT ship in interstate commerce, except to themselves or an FFL, a firearm that has otherwise been lawfully acquired; must, when shipping to themselves, declare the firearm to the commercial or contract carrier.

Non-Licensed Residents From Another State

 MAY dispose of firearms to any FFL.
 MAY acquire longguns only from FFLs licensed in Tennessee, provided the laws of both States are complied with and all provisions of the Brady law are met.
 MAY order firearms from any FFL and have them shipped from the show to an FFL in their State of residence by a commercial or contract carrier in accordance with State and Federal law.
 CANNOT acquire handguns.
 CANNOT acquire from or dispose of firearms to non-licensed individuals.

HOLIDAYS

TICS is closed for business only three days each year: Independence Day (July 4), Thanksgiving and Christmas.

IDENTIFICATION OF PURCHASER – ACCEPTABLE DOCUMENTATION

FFL's (licensees) may accept a combination of valid government-issued documents to satisfy the identification document requirements of the Brady Act. The required valid government-issued photo identification document bearing the name, photograph, and date of birth of the transferee may be supplemented by another valid government-issued document showing the transferee's residence address. A member of the Armed Forces on active duty is a resident of the State in which his or her permanent duty station is located, and may satisfy the identification document requirement by presenting his or her military identification card along with the official orders showing that his or her permanent duty station is within the State where the licensed premises are located.

The Brady Act requires the FFL to identify the purchaser by physically examining a valid government-issued identification document that contains the photograph of the holder. At the time of this examination, the FFL should ask the purchaser if the address shown on the proffered document is the current and correct address. If it is not, the purchaser must present a supplemental identification document that meets the above requirements.

The Brady Act definition of an "identification document" is as follows: "[A] document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals."

The ATF advises that identification documents containing an out-of-date residence address or a mailing address (such as a post office box) in lieu of a residence address, do not satisfy the requirements of the regulations implementing the Brady Act. FFLs should be aware of this ruling and ask the purchaser if the residence address is current. If it is not, the FFL should require a supplemental identification document that bears the current residence address (not a P.O. Box).

Examples of Acceptable Identification Documents

1. Tennessee driver's license (or any other states' driver's license bearing a current address, date of birth and photograph. (NOTE: out-of-state driver's license would not allow the purchase of a handgun). A Tennessee Handgun Carry Permit issued by TN Department of Safety is an acceptable alternative
2. Any ID card issued by federal, state or local government agencies or entities, provided it contains a photograph, current address and date of birth. (This would include Canadian or other foreign government issued driver's licenses).
3. School ID and voter registration cards (may not contain all required information but can supplement other ID).
4. U.S. Military ID card or draft record or military dependent's ID card (also includes a U.S. Coast Guard Merchant Mariner Card).
5. Native American tribal document
6. A U.S. passport or Certificate of U.S. Citizenship (INS Form N-560), Certificate of Naturalization (INS Form n-550 or N-570), Un-expired foreign passport with I-551 stamp, Alien Registration Receipt Card with photograph (INS Form I-151 or I-551), Un-expired Temporary Resident Card (INS Form I-688) Un-expired Employment Authorization Card (INS Form I-688A), Un-expired Re-entry Permit (INS Form I-327), Un-expired Refugee Travel Document (INS Form I-571) or Un-expired Employment Authorization Document issued by the INS Which Contains a photograph (INS Form I-688b).
For further interpretation of the ATF ruling, contact the ATF regarding ATF Rule 2001-5, signed December 31, 2001
7. Tennessee's Department of Safety now issues a 'CERTIFICATE FOR DRIVING" for certain persons. This "certificate" is NOT VALID FOR IDENTIFICATION and may not be accepted as the required identification for a firearm purchase or redemption from pawn.
Acceptable identification for firearm purchases/pawn redemptions (both are "transactions") are well defined in federal law and ATF Rules. Expired driver licenses are not valid identification documents. Tennessee does not require a photograph on the driver license for persons of a certain age—those licenses cannot be used as the sole means of identification for a firearm transaction. Documentation that is acceptable for obtaining a Tennessee Handgun Carry Permit is not necessarily acceptable for the purpose of purchasing a gun.

IMPORTATION OF FIREARMS BY MEMBERS OF THE ARMED FORCES

See ATF Rules 69-309 and 74.13 (27 Code of Federal Regulations 178.114) in the ATF's "FEDERAL FIREARMS REGULATIONS REFERENCE GUIDE". For additional assistance with this issue, contact your local ATF office.

INCLEMENT WEATHER POLICY

In the event of inclement weather (tornadoes, flooding, ice/snow storms, etc.), TICS employees will make their own individual decisions regarding their personal safety and travel to and from home to work and back. No TICS employee will be required to report to work if roads are unsafe or weather conditions are so extreme as to be dangerous. Therefore, there is always a possibility that TICS might not be fully staffed in such situations, thus causing a backlog in processing background checks for firearm purchases. Once the extreme weather clears and TICS employees are able to report for work, transactions will be handled as quickly as possible.

JUVENILES & FIREARM PURCHASES

Under federal law, it is unlawful for a FFL to sell or deliver a handgun to any individual who the FFL knows or has reasonable cause to believe is less than 21 years of age. (Title 18, U.S.C., Chapter 44, §922(b)(1) from p. 9, Federal Firearms Regulations Reference Guide – 2000). However, federal law also states it to be unlawful for a person to sell, deliver or otherwise transfer a handgun to a person who the transferor knows or has reasonable cause to believe is a juvenile. (Title 18, U.S.C., Chapter 44, §922(x)(1)(A), p. 14, FFRRG-2000). The same subsection of federal law defines "juvenile" as a person who is less than 18 years of age. (Title 18, U.S.C., Chapter 44, §922(x)(5), p. 15, FFRRG-2000).

Current Tennessee law does not address this topic.

Current interpretation by the FBI NICS and by the ATF is that a federally licensed dealer (FFL) is prohibited from selling or delivering a handgun to a person under the age of 21 by §922(b)(1), but that the prohibition against selling, delivering or transferring a handgun to a juvenile, as stated in §922(x)(1)(A) applies to persons not otherwise defined.

LAW ENFORCEMENT OFFICERS & FIREARM SALES

State law indicates that the background check requirements do not apply to transactions or transfers between FFLs and a bona fide law enforcement agency or such agency's personnel. However, the ATF advises that the TICS/NICS check must be done on law enforcement officers unless the officer presents the FFL with a letter on official department letterhead, and signed by the officer's department head, stating that the firearm is being purchased for on-the-job use. If the firearm is being purchased for personal use, including hunting, the TICS/NICS check must be completed.

LAY-AWAY AND OUT-OF-STOCK ORDERS

In situations where a potential purchaser needs to put the firearm on a lay-away plan or requests the dealer to place an order for an unusual item, the FFL may choose to run a background check before the order is placed or lay-away accepted. In either case an additional transaction must be run at the time of actual transfer. A separate fee will be due for each transaction.

LICENSING ISSUES - FEDERAL FIREARM LICENSE (FFL)

Issues relating to your federal firearm license (FFL) are discussed on pp. 137-138, section C of your "Federal Firearms Regulations Reference Guide – 2000". All FFLs should be aware that the ATF's National Licensing Center in Atlanta, GA is the unit of ATF that actually issues the FFL. However, at the publication of this document, the ATF requires that applications for your FFL and the renewal of your FFL be sent to one of their offices in Dallas, Texas. FFLs should also be aware of the time restrictions for filing applications in a "timely manner", and of the fact that the ATF does not routinely advise the TBI/TICS of the issuance or renewal of a FFL. It is the sole responsibility of the licensee (dealer) to notify TBI of any changes to the status of their FFL. Failure to do so in a prompt manner may result in the FFL being disabled from running TICS/NICS checks.

The licensee must provide the TICS Unit with a legible copy of the new FFL upon receipt of the FFL from the ATF. The TICS database of FFLs contains the expiration dates of all FFLs in Tennessee. If the TICS Unit has not received a legible copy of a new FFL by close of business on the day the FFL is due to expire, the TICS Unit will disconnect the FFL account from the background check system. The licensee may not legally conduct further TICS/NICS checks until such time as a legible copy of the FFL is received, accompanied by a new Account Information Form (BI-0162). Fax copies of the FFL are acceptable if transmitted on high resolution and are legible when received..

For help with your licensing problems, contact the ATF's National Licensing Center in Martinsburg, WV at the telephone number(s) furnished herein under the PHONE NUMBER section.

MAINTAINING AN ACCOUNT WITH TICS

FFLS wishing to maintain an account with TICS for the purpose of complying with state and federal background check requirements on their firearm customers must:

1) Provide TICS with a legible copy of any new license, renewal of license or Letter of Authorization (LOA) from the ATF's Federal Firearms Licensing Center (FFLC). The license or LOA must be provided to TICS before the last weekday on the day before the old license or LOA being maintained by TICS is due to expire.

2) If a renewed license or LOA is not provided within a timely manner as stated above, it will be necessary for the FFL to send TICS a new ACCOUNT INFORMATION FORM along with the new license or LOA. A closed account cannot be reactivated without the information contained on the Account Information Form.

3) Keep TICS advised, via a new Account Information Form, of any changes of address, phone numbers, e-mail addresses, passwords and other information necessary for TICS to keep accurate records. Failure to keep TICS advised will result in the account being deactivated until such time as current information is provided on a new Account Information Form.

4) Keep their account paid up with the TBI's Fiscal Services Unit (see Billing/Account Payment). Failure to do so will result in deactivation of the account by the Fiscal Services Unit.

MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE

Under T.C.A. 39-17-1316(a)(1), the offense of violation of a protective order as prohibited by T.C.A. 39-13-113 shall be considered a "misdemeanor crime of domestic violence" for purposes of 18 U.S.C. 921.

Under a ruling from the U.S. Attorney General, any crime that could have originally been a crime of domestic violence (DV) MUST be thoroughly researched in order to deny a firearm transaction. This will, of course, delay a speedy turnaround in processing many TICS/NICS inquiries. The U.S. AG and FBI NICS have listed many such possible DV charges that require substantial research. Those charges include: Affray, Assault, Assault & Battery, Battery, Criminal Mischief, Disorderly Conduct, Fighting, Menacing, Reckless Endangerment, Sexual Abuse, and Simple Assault. This is not an all-inclusive list.

A person shall be considered to have been convicted of a misdemeanor crime of domestic violence only if all of the following three conditions are met:

1. The person is considered to have been convicted by the jurisdiction in which the proceedings were held; and

2. The person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

3. In the case of a prosecution for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either
a. The case was tried by a jury, or
b. The person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea, or otherwise.
Domestic violence charges often start out with an arrest charge of DOMESTIC VIOLENCE and get reduced in court to one of the above charges. If one of the above charges is found, during review, to have all the following criteria, TICS will deny the transaction:
1. The charge is a misdemeanor under federal or state law or, in states that do not classify offenses as misdemeanors, is an offense that is punishable by imprisonment for a term of one year or less, and includes offenses that are punishable only by a fine (whether or not the state statute specifically defines the offense as a "misdemeanor" or as a "misdemeanor crime of domestic violence"); and
2. Involves the use or attempted use of physical force (e.g., assault or battery) or the threatened use of a deadly weapon; and
3. Was committed by a current or former spouse, parent, or guardian of the victim; by a person with whom the victim shares a child in common; by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian (e.g., the equivalent of a "common law" marriage even if such relationship is not recognized under the law), or a person similarly situated to a spouse, parent, or guardian of the victim (e.g., two persons who are residing at the same location in an intimate relationship with the intent to make that place their home).

MULTIPLE SALES OR OTHER DISPOSITION OF PISTOLS & REVOLVERS

FFLs are required by federal law (27 CFR Chapter II, Part 478.126a) to report to the ATF multiple sales or other disposition of handguns and revolvers on Form 3310.4 (Report of Multiple sale or Other Disposition of Pistols and Revolvers). The form specifies that a copy be sent to the State police or to the local law enforcement agency in which the sale or other disposition took place. Do not send this form to TBI/TICS. TBI/TICS has no authority to do anything with the form. Federal and state law prohibits TBI/TICS from retaining records of approved firearm transfers for more than 24 hours after the approval and transaction number has been furnished to the FFL.

MULTIPLE TRANSACTIONS

Occasionally there will be multiple persons in need of a background check from the same FFL. During the same telephone call to the TICS Unit an FFL may process no more than three (3) separate transactions. A new transaction is required for each individual receiving a firearm. A fee will be charged for each transaction for each individual. A new call to the TICS Unit will be required if more than three transactions are necessary. Transactions between the same purchaser and several different FFLs on the same day will require a TICS check to be run by each FFL. This also includes transactions at a gun show where firearms are purchased from separate vendors during the day. FFLs utilizing the TICS web check system are not limited as to how many transactions they run because the checks do not require involvement of a human call-taker.

MULTIPLE FIREARMS PER TRANSACTION

Occasionally there will be a transaction involving one person and as many as three firearms with the same FFL. The TICS Unit will accept no more than three firearms per purchaser if the FFL is calling the transaction in by telephone.. If the purchaser is purchasing more than three firearms, the FFL must place another call to the TICS Unit, and ask for a stolen gun check on the additional firearm(s). No transaction fee is required for making a check on the additional firearm(s). Only one background check and fee will be required for this transaction. These restrictions do not apply if the FFL is utilizing the TICS web check system to run the transaction – the FFL can enter as many firearms as the purchaser is actually buying and run them all with the single transaction on the purchaser. Identifying information about each firearm will be required and checked as part of the same transaction. Transactions by the same individual with other FFL's in the same day will require an additional check and fee.

Once an individual has completed a transaction and left the FFL's business premises, he/she must complete a new ATF 4473 even if he/she returns to the same FFL five minutes later to purchase another firearm. A TICS/NICS check conducted in accordance with state and federal law may be relied upon by the FFL only for the use in a single transaction, and for a period not to exceed 30 calendar days from the date that the TICS/NICS check was initially run.

If an approved transaction is not completed within the 30-day period, the licensee shall initiate a new TICS/NICS check prior to the completion of the transfer. Effectively, this means the purchaser must pick up the firearm(s) within 30 days of the time the initial TICS/NICS check is done. {See Title 27, U.S.C.F.R., Chapter 1, Part 178.102 (c)}

NOTE: If the transaction is denied, the appeal must be filed promptly so as to allow sufficient processing time. If the purchaser does not appeal within 30 days following the denied transfer, he/she must start all over again with the process of attempting to purchase, getting denied and then quickly appealing the denial.

OUT-OF-STATE RESIDENTS

Federal law prohibits the sale of handguns to individuals who are not residents of Tennessee by a Tennessee FFL. Transfers of long guns to persons who currently live outside the State of Tennessee must be in compliance with the laws of Tennessee as well as the laws of the purchaser's state of residence (SOR). It is the responsibility of the FFL to comply with these requirements. The ATF furnishes FFLs with a list of the firearm laws of each state.

Currently there is no way for a FFL in Tennessee to call the Point of Contact (POC) in any other state or the FBI's NICS and request a Brady Bill check on the purchaser for the purchaser's SOR. Some states prohibit their residents from purchasing long guns out of state. Tennessee FFLs should refer to the information provided by the ATF for guidance as to whether a long gun transfer to an out-of-state residence is permissible.

PAWN TRANSACTIONS (DIRECT SALES & REDEMPTIONS)

All transactions conducted by a pawnbroker who is a FFL are considered "Transfers", whether they are direct sales or redemptions from pawn. Pawnbrokers should make all persons attempting to pawn a firearm aware that they will have to pass a TICS/NICS check before they can redeem the firearm from pawn. A person holding a pawn ticket may not be the person that originally pawned the firearm, but still has to pass a TICS/NICS background check.

For information regarding the return of a firearm to someone who did not originally pawn the firearm, please refer to the Questions/Answers section of ATF's publication "Federal Firearms Regulations Reference Guide" – 2005, beginning with section J. Pawnbrokers, at the bottom of p. 185 and continuing through J5 on p.l 186. Specifically, J2 will answer your questions about to whom you may return a pawned firearm.

PROHIBITED ACTIVITIES AND PENALTIES

Authorized use of the TICS is limited to the purpose of obtaining information on whether receipt of a firearm by a prospective transferee would violate federal or state law. FFLs, their officers, employees, agents, and/or other representatives are permitted to request background checks of the TICS only for the authorized purpose of running the required TICS/NICS check in compliance with state and federal law. Access or use of the TICS, or permitting access or use of the TICS by another, for any unauthorized purpose is a violation of state and federal law. Penalties/sanctions may include criminal prosecution; a civil fine not to exceed $10,000 (federal) and/or cancellation of TICS inquiry privileges (applies to law enforcement agencies not authorized to run checks through TICS as well). Although the Tennessee Bureau of Investigation is providing the TICS services, the databases being accessed include FBI, NCIC and III, which are protected from unauthorized access by federal law.

The following federal criminal statutes may be used to prosecute individuals for unauthorized access to and/or misuse of those databases: 18 U.S.C. 641 (Theft of Government Property), 18 U.S.C. 1030 (Fraud and Related Activity in Connection with Computers), and 18 U.S.C. 1343 (False Pretense or Misrepresentation). Additionally, misuse or unauthorized access to databases maintained by or accessed through the State of Tennessee would be covered by Tennessee Code Annotated 39-14-602 (a) (b) and is considered theft of property or services. These offenses are punished according to the value of the property or services obtained. For details, see TCA 40-35-111 (Authorized Terms of Imprisonment and fines for Felonies and Misdemeanors). Any verified misuse of the TICS/NICS is immediately reported to the ATF and the FBI by the TICS Unit.

RAFFLES – FIREARM PURCHASES FOR

Under Tennessee Constitution, Article XI, Section 5, lotteries are illegal in the state of Tennessee. Raffles fall into the same category as lotteries. Therefore, anyone attempting to purchase a firearm for a raffle is attempting an illegal transaction. A purchaser must state on the form 4473, Section 9a that he/she is the actual buyer of the firearm. Firearms may be purchased as gifts, but the intent of the law is to prohibit firearms from coming into possession of those who are legally prohibited from possessing them. Buying a firearm after stating that it is for oneself, then raffling it off to someone who is, perhaps, legally prohibited from possessing one would violate the law. It would also be a "straw purchase" violation (see below). FFLs should deny the purchase and explain the reason to their customer.

RESIDENCY REQUIREMENTS (INCLUDING MILITARY PERSONNEL)

"State of residence" is defined by regulation in 27 Code of Federal Regulations 178.11 as the State in which an individual regularly resides or maintains a home. Please see ATF Rule 80-21 in the "FEDERAL FIREARMS REGULATIONS REFERENCE GUIDE" or contact your local ATF office for assistance with this issue. This rule holds that during the time a college student actually resides in a college dormitory or at an off-campus location they are considered residents of the State where the dormitory or off-campus home is located. During the time out-of-State college students actually reside in their home State they are considered residents of their home State.

If an individual is on active duty as a member of the Armed Forces, the individual's State of Residence (SOR) is the State in which his or her permanent duty station is located. This status does not transfer to the spouse, significant other or children of a member of the Armed Forces. They must separately establish residency. The ATF has determined that military personnel whose orders or other military documentation show their permanent duty station to be Fort Campbell, Kentucky, may lawfully purchase handguns (as well as long guns) in the State of Tennessee and the State of Kentucky (assuming they pass the background check). This decision is based on the Gun Control Act 18 U.S.C. 921(b) in which military personnel are considered residents of the State in which their permanent duty station is located. Fort Campbell sits within Tennessee and Kentucky.

RESTORATION OF RIGHTS FOLLOWING CONVICTION

A court ordered restoration of rights may not restore a convicted felon's rights to purchase or possess a firearm. Court orders for restoration of rights, when submitted to TICS following a denial of a firearm transfer, will be reviewed by TBI's General Counsel to see if all the necessary elements are included in the order. General Counsel will also review the actual arrest charge, the date of arrest, date the restoration order was issued, the language contained in the order and the law at the time the arrest was made. The review will encompass both state and federal law related to restoration of rights as applicable to the right to purchase or possess a firearm. TICS will rely upon advice of TBI General Counsel in determining whether a restoration of rights order will or will not overturn a previous denial of firearm transfer.

STALKING (PROHIBITOR OFFENSE)

By an amendment to T.C.A. 39-17-1316, the Tennessee General Assembly prohibited transfer of a firearm to anyone who has been convicted of the offense of stalking, as prohibited by T.C.A. 38-17-315.

STOLEN FIREARMS

A check of the NCIC database will be performed for each firearm included in a transaction to determine if the firearm is reported as stolen. In the event that a firearm is stolen, the firearm is undeliverable. The transfer will be denied and the stolen firearm will be reported to the law enforcement agency with jurisdiction over the FFL's location. The FFL will also be notified that the firearm appears to be stolen and that it is not to be transferred. The investigating law enforcement agency will make a separate inquiry into the NCIC Stolen Firearms database and will seize the firearm if it is confirmed stolen or require the FFL to place a hold on the firearm and not transfer it to anyone until further notice. If multiple responses to the stolen inquiry are returned, the FFL may be asked to provide further descriptive information to identify the firearm.

In an effort to identify stolen weapons before they are transferred to FFL's, a free stolen firearm check can be performed for FFLs who log into the Website. This service will be available at no cost to the FFL's. **There is no legal requirement for TICS to do these checks for FFLs prior to them taking a firearm in trade or into pawn, however it is in the best interest of the FFLs, law enforcement and the rightful owners of stolen firearms to provide this service**..

STRAW PURCHASE VIOLATIONS

A “straw purchase” violation occurs whenever a person prohibited from acquiring firearms uses a “straw purchaser” (another person) to acquire the firearms. Specifically, the actual buyer uses the “straw purchaser” to execute the Form 4473 purporting to show that the “straw purchaser” is the actual purchaser of the firearm. In some instances, a “straw purchaser” is used because the actual purchaser is prohibited from acquiring the firearm. That is to say, the actual purchaser is a felon or is within one of the other prohibited categories of persons who may not lawfully acquire firearms, or is a resident of a state other than that in which a licensee’s business premises is located. In other instances, neither the “straw purchaser”, nor the actual purchaser, is prohibited from acquiring the firearm.

Question 9a of Form 4473 asks: Are you the actual buyer of the firearm indicated on this form? If you answer “no” to this question the dealer cannot transfer the firearm to you. If you are purchasing a firearm for another person who is prohibited from acquiring firearms, and you answer “yes” to question 9a, you have then falsified the form and are in violation of Federal law. (See 18 U.S.C. 922 and 923)

The actual buyer who has enticed another person to fill out the Form 4473 on his/her behalf would also be in violation of Federal law.

Finally, if a Federal Firearm Licensee (gun dealer) were aware of the false statements, the dealer would be in violation of the Federal law if the transfer of the firearm (s) were made.

One of the most common “straw purchase” violations occurs when a purchaser is denied and then attempts to get the firearm(s) by having his or her spouse, other relative or friend fill out a Form 4473 and buy the firearm(s) on his or her behalf. In such cases, little thought seems to be given to the fact that three separate persons may be violating Federal law. Often, the “straw purchaser” may be unaware of the violation simply because of not taking the time to thoroughly read Form 4473, along with the instructions. It should be noted that these violations also apply if the transaction is a delivery (transfer) of a firearm other than a sale, as in redemption of a previously pawned firearm.

The TICS Unit cooperates with the Bureau of Alcohol, Tobacco and Firearms (ATF), and routinely reports suspected “straw purchases” to the ATF for action. FFLs should know the law on “straw purchases” and advise their denied purchasers and likely “straw purchasers” of a potential violation of Federal law. The FFLs should then refuse to complete the transfer of the firearm(s) to any person who is not the actual purchaser.

SUPPLIES

Appeal of Denial of Attempted Firearm Transfer (Form # BI-0165) – This form is currently furnished free of charge to the FFLs, to be furnished by them to their "Denied" purchasers. The "Denied" purchaser must complete the form, including the Transaction Number, and mail or fax it to the TICS Unit to initiate an appeal of the "Denial". This form replaces the old appeal form called "Request for Review of Personal Criminal History Record". If you do not have the current form, please contact TICS by phone or online at http://www.tn.gov/tbi then click on TBI"S Divisions, then click on Information Systems Division, then click on TICS/Firearm Background Checks, then click on Appeal Form. You may print the forms from the website. Dispose of the old form. Do not refer the "Denied" purchaser to the TICS Unit telephone number for immediate information on the reason for the denial. Denials will NOT be discussed unless, and until, form BI-0165 has been received by the TICS Unit.

Firearms Transaction Record (yellow ATF Form 4473) – This form is supplied to you by ATF. You may contact them at (703) 455-7801. TBI/TICS does not stock or supply this form.

TENNESSEE FIREARMS FREEDOM ACT (PC 435)

House Bill 1796 passed the 106th Session of the Tennessee General Assembly and became effective June 19, 2009 as the "Tennessee Firearms Freedom Act (Public Chapter 435). According to ATF's Assistant Director for Enforcement Programs and Services (n a July 16, 2009 "Open Letter to All Tennessee Federal Firearms Licensees"….."The Act purports to exempt personal firearms, firearms accessories, and ammunition manufactured in the State, and which remain in the State, from most Federal firearms laws and regulations. However, because the Act conflicts with Federal firearms laws and regulations, Federal law supersedes the Act, and all provisions of the Gun Control Act and the National Firearms Act, and their corresponding regulations, continue to apply. As you may know, Federal law requires a license to engage in the business of manufacturing firearms and ammunition, or to deal in firearms, even if the firearms or ammunition remain within the same state. All firearms manufactured by a license must be properly marked. Additionally, each licensee must record the type, model, caliber or gauge, and serial number of each firearm manufactured or otherwise acquired, and the date such manufacture or other acquisition was made. The information required must be recorded in the licensee's records not later than the seventh day following the date such manufacture or other acquisition was made. Firearms transaction records and NICS background checks must be conducted prior to disposition of firearms to unlicensed persons. These, as well as other Federal requirements and prohibitions, apply whether or not the firearms or ammunition have crossed state lines." (end of Open Letter from ATF'S Carson W. Carroll)

TENNESSEE'S FIREARMS TRANSFER LAW

**Tenn. Code Ann. § 39-17-1316**

39-17-1316. Sales of dangerous weapons -- Certification of purchaser -- Exceptions -- Licensing of dealers -- Definitions.

(a) (1) Any person appropriately licensed by the federal government may stock and sell firearms to persons desiring firearms; however, sales to persons who have been convicted of the offense of stalking, as prohibited by § 39-17-315, who are addicted to alcohol, who are ineligible to receive firearms under 18 U.S.C. § 922, or who have been judicially committed to a mental institution pursuant to title 33 or adjudicated as a mental defective are prohibited. For purposes of this subdivision (a)(1), the offense of violation of a protective order as prohibited by § 39-13-113 shall be considered a "misdemeanor crime of domestic violence" for purposes of 18 U.S.C. § 921.

(2) The provisions of this subsection (a) prohibiting the sale of a firearm to a person convicted of a felony shall not apply if:

(A) The person was pardoned for the offense;

(B) The conviction has been expunged or set aside; or

(C) The person's civil rights have been restored pursuant to title 40, chapter 29; and

(D) The person is not prohibited from possessing a firearm by the provisions of § 39-17-1307.

(b) (1) As used in this section, "firearm" has the meaning as defined in § 39-11-106, including handguns, long guns, and all other weapons that meet the definition except "antique firearms" as defined in 18 U.S.C. § 921.

(2) As used in this section, "gun dealer" means a person engaged in the business, as defined in 18 U.S.C. § 921, of selling, leasing, or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker, or otherwise.

(c) Except with respect to transactions between persons licensed as dealers under 18 U.S.C. § 923, a gun dealer shall comply with the following before a firearm is delivered to a purchaser:

(1) The purchaser shall present to the dealer current identification meeting the requirements of subsection (f);

(2) The gun dealer shall complete a firearms transaction record as required by 18 U.S.C. §§ 921-929, and obtain the signature of the purchaser on the record;

(3) The gun dealer shall request by means designated by the bureau that the Tennessee bureau of investigation conduct a criminal history record check on the purchaser and shall provide the following information to the bureau:

(A) The federal firearms license number of the gun dealer;

(B) The business name of the gun dealer;

(C) The place of transfer;

(D) The name of the person making the transfer;

(E) The make, model, caliber and manufacturer's number of the firearm being transferred;

(F) The name, gender, race, and date of birth of the purchaser;

(G) The social security number of the purchaser, if one has been assigned; and

(H) The type, issuer and identification number of the identification presented by the purchaser; and

(4) The gun dealer shall receive a unique approval number for the transfer from the bureau and record the approval number on the firearms transaction record.

(d) Upon receipt of a request of the gun dealer for a criminal history record check, the Tennessee bureau of investigation shall immediately, during the gun dealer's telephone call or by return call:

(1) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under the provisions of subdivision (a)(1) from completing the purchase; and

(2) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

(e) (1) The Tennessee bureau of investigation may charge a reasonable fee, not to exceed ten dollars ($10.00), for conducting background checks and other costs incurred under the provisions of this section, and shall be empowered to bill gun dealers for checks run.

(2) Funds collected by the Tennessee bureau of investigation pursuant to this section shall be deposited in a continuing deferred interest-bearing revenue fund that is created in the state treasury. This fund will not revert to the general fund on June 30 of any year. This fund shall be used to offset the costs associated with conducting background checks. By February 1 of each year the Tennessee bureau of investigation shall report to the judiciary committees of the senate and the house of representatives the amount of money collected pursuant to this section in excess of the costs associated with conducting background checks as required by this section. The excess money shall be appropriated by the general assembly to the Tennessee bureau of investigation for other law enforcement related purposes as it deems appropriate and necessary.

(f) (1) Identification required of the purchaser under subsection (c) shall include one (1) piece of current, valid identification bearing a photograph and the date of birth of the purchaser that:

(A) Is issued under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

(2) If the identification presented by the purchaser under subdivision (f)(1)(A) does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser.

(g) The Tennessee bureau of investigation may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the bureau.

(h) The Tennessee bureau of investigation shall establish a telephone number that shall be operational seven (7) days a week between the hours of eight o'clock a.m. and ten o'clock p.m. Central Standard Time (8:00 a.m.-10:00 p.m. (CST)), except Christmas Day, Thanksgiving Day, and Independence Day, for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

(i) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section; provided the employee, official or agency acts in good faith and without malice.

(j) Upon the determination that receipt of a firearm by a particular individual would not violate this section, and after the issuance of a unique identifying number for the transaction, the Tennessee bureau of investigation shall destroy all records (except the unique identifying number and the date that it was assigned) associating a particular individual with a particular purchase of firearms.

(k) A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant.

(l) (1) The background check does not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, or licensed collectors who meet the requirements of subsection (b) and certify prior to the transaction the legal and licensed status of both parties. The burden shall fall upon the transferor to determine the legality of the transaction in progress.

(2) The background check does not apply to transactions or transfers between a licensed importer, licensed manufacturer, or licensed dealer and a bona fide law enforcement agency or such agency's personnel. However, all other provisions and requirements of subsection (b) must be observed. The burden of proof of the legality of the transactions or transfers shall rest upon the transferor.

(3) The background check does not apply to any person eligible to purchase a firearm as set out in this section who wishes to make an occasional sale of a used or second-hand firearm legally purchased by the seller.

(m) The director of the Tennessee bureau of investigation is authorized to make and issue all rules and regulations necessary to carry out the provisions of this section.

(n) In addition to the other grounds for denial, the bureau shall deny the transfer of a firearm if the background check reveals information indicating that the purchaser has been charged with a crime for which the purchaser, if convicted, would be prohibited under state or federal law from purchasing, receiving, or possessing a firearm; and, either there has been no final disposition of the case, or the final disposition is not noted.

(o) Upon receipt of the criminal history challenge form indicating a purchaser's request for review of the denial, the bureau shall proceed with efforts to obtain the final disposition information. The purchaser may attempt to assist the bureau in obtaining the final disposition information. If neither the purchaser nor the bureau is able to obtain the final disposition information within fifteen (15) calendar days of the bureau's receipt of the criminal history challenge form, the bureau shall immediately notify the federal firearms licensee that the transaction that was initially denied is now a "conditional proceed." A "conditional proceed" means that the federal firearms licensee may lawfully transfer the firearm to the purchaser.

(p) In any case in which the transfer has been denied pursuant to subsection (n), the inability of the bureau to obtain the final disposition of a case shall not constitute the basis for the continued denial of the transfer as long as the bureau receives written notice, signed and verified by the clerk of the court or the clerk's designee, that indicates that no final disposition information is available. Upon receipt of the letter by the bureau, the bureau shall immediately reverse the denial.

(q) (1) It is an offense for a person to purchase or attempt to purchase a firearm knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(2) It is an offense to sell or offer to sell a firearm to a person knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(3) A violation of this subsection (q) is a Class A misdemeanor.

TRANSACTION VALIDITY

When a background check is completed a unique transaction number is assigned by the TICS Unit. If the purchaser is not present when the transaction is completed (for instance if the transaction was originally pending) the transaction will be valid for 30 days from the issuance of the transaction number. If the purchaser does not take possession of the firearm in this period of time, a new transaction with the corresponding fee is required before legal transfer can be made.

UNDELIVERED FIREARMS

Firearms that are pawned, or placed on lay-away, cannot be legally transferred without a background check being performed at the time of the transfer. If the transfer is denied, the FFL must make a business decision regarding the lawful disposition of the firearm. TBI/TICS has no authority and offers no guidance in these matters.

WANTED PERSONS

If the background check of the purchaser identifies that he/she is a wanted person, the transaction will be given a "Pending" status. A special process will then begin, including contacting local law enforcement officials with a request to respond to the FFL's premises and check on the purchaser. The law enforcement agency will be furnished the information found by the TICS Unit which indicated the purchaser to be a wanted person. It will be the responsibility of responding law enforcement officers to run a second check of the purchaser through the FBI's NCIC Wanted Person File to determine conclusively whether the person is actually wanted. If the person is verified as wanted by any law enforcement agency, the responding agency will follow their internal procedures. Many wanted persons are wanted for non-serious crimes in other states, for which the other state will not extradite. In such cases, the responding law enforcement agency generally will NOT arrest the purchaser. However, if the person is wanted for ANY offense, TICS will not approve the firearm transfer. Once the purchaser is verified by the responding law enforcement agency as being wanted, the transaction status will be changed to "Denied".

WARNING: FFLs should never try to apprehend or confront a wanted person. The appropriate law enforcement agency should always be contacted if problems or dangerous situations arise.

STATE OF TENNESSEE

POLICY OF NON-DISCRIMINATION

"Pursuant to the State of Tennessee's policy of non-discrimination, the Tennessee Bureau of Investigation does not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability, or military service in its policies, or in the admission or access to, or treatment or employment in, its programs, services or activities."

Equal Employment Opportunity/Affirmative Action inquiries or complains should be directed to the Tennessee Bureau of Investigation, EEO/AA Coordinator or Officer, 901 R.S. Gass Blvd., Nashville, TN 37216-2639, 615-744-4000. ADA inquiries or complaints should be directed to the Tennessee Bureau of Investigation, ADA Coordinator, 901 R.S. Gass Blvd., Nashville, TN 37216-2639, 615-744-4000.

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