



## **Don't Just Close the Gun Show Loophole Close it Effectively!**

The gun show loophole allows felons, domestic abusers, minors, and other prohibited persons to purchase guns without background checks.

How does this happen? Current federal law only requires Federal Firearms License (FFLs) holders to conduct Brady background checks on gun show sales. The loophole is that unlicensed private individuals are not required to conduct the Brady checks. So, convicted felons and other prohibited persons buy guns at gun shows from these unlicensed private individuals to avoid background checks.

The public supports closing this deadly loophole. The 1999 National Gun Policy Survey, conducted by the National Opinion Research Center, found that nearly eight out of 10 Americans (79 percent) would favor a law that required private gun sales to be subject to the same background check requirements as sales by licensed dealers. This belief is shared by America's gun owners. Two-thirds of Americans who personally own a gun would favor such a law.

Consumer Federation of America (CFA) wants to see the gun industry regulated for health and safety like virtually every other industry, and closing the gun show loophole is an important step in that direction. Ideally, all retail gun sales should be regulated to protect the public from unreasonable risk of injury and death.

In order to close the gun show loophole effectively, the following five principles must be upheld:

- 1) **Legislation to close the gun show loophole should build on the Brady Law not weaken it.** Under the existing National Instant Criminal Background Check System (NICS) the system which implements the background check required under the 1993 Brady Handgun Violence Prevention Act three business days are allowed to complete suspicious checks. The NRA argues that the 3-business days allowed to complete the checks holds up legitimate gun buyers. That's not true. According to the Department of Justice, *95 percent of all checks are completed within two hours*, and 22 percent of all gun buyers who are found to be prohibited persons are not found to be prohibited until more than 72 hours have passed. Ultimately, the NRA wants Congress to reduce the three business day period to 24 hours. This would not be effective because it would establish lesser requirements for gun shows than those which currently apply to sales at gun stores. It would have the negative effect of drawing more criminals to gun shows since they would have a better chance of slipping through the cracks. It may sell more guns, but it would put the public at risk.
- 2) **The integrity of the National Instant Criminal Background Check System (NICS) must not be undermined.** The Justice Department currently allows records generated by the NICS to be kept for 90 days for audit purposes. The FBI needs this period to insure that the system is functioning properly. The NRA supports efforts to immediately destroy essential records maintained under NICS. This would weaken efforts to ensure the Brady bill's effectiveness.
- 3) **Access to the NICS system should not be expanded.** During debate last Congress, NRA-sponsored amendments would have created a new class of licensee, who would be granted access to the NICS to facilitate non-dealer sales. In 1999 Senator and NRA

Board Member Larry Craig (R-ID) offered an NRA-drafted amendment that would have created a new classification of licensees called "special registrants" with access to the NICS in order to perform background checks at gun shows. Representative John Conyers (D-MI), ranking Democrat on the House Judiciary Committee, expressed his concern that "the creation of a new entity entrusted with conducting accurate background checks and safeguarding the privacy of the system is an invitation to organized crime front operations' fraudulently conducting background checks and misusing the system." Furthermore, the creation of a network of special registrants could severely tax the resources available to the Bureau of Alcohol, Tobacco and Firearms (ATF) to conduct routine inspections and ensure compliance with applicable laws.

Another potential danger posed by "special registrants" is that they could easily become a new class of gun *seller*. The NRA has made reversing the decrease in the number of FFLs a high-priority issue. In its latest issue of *America's 1st Freedom* NRA Executive Vice President Wayne LaPierre addressed the issue in his column, proclaiming, "BATF's blatant anti-dealer policies which have harassed thousands out of business must be reversed." The NRA clearly wants to increase the number of gun sellers, which would ultimately allow criminals easier access to guns.

- 4) **Gun show legislation must ensure that all guns sold at such shows can be efficiently traced if they turn up in a crime scene.** For example, three of the guns used in the Columbine High School shooting which were purchased at a gun show were not easily traceable because they had been sold through private sellers without background checks and the required recordkeeping. The goal of effective crime gun tracing would be undermined by the creation of a new category of licensees with fewer recordkeeping duties than full-fledged FFLs. Scrupulous recordkeeping is essential to the effectiveness of gun show legislation.
- 5) **Regulations must be applied to all guns shows.** In order to be effective, the legislation must apply to all events at which guns are sold in any volume, such as gun shows, flea markets, or swap meets. It is imperative that the definition of gun show ensure that transactions initiated at a gun show cannot be consummated off-premises with no background check required. Effective legislation should mandate a background check if any part of a firearm transaction (including the offer for sale, transfer, or exchange) takes place at a gun show. Criminals are sure to exploit a "let's step outside" loophole that would allow unscrupulous gun sellers to use gun shows as venues for arranging sales and then finalizing them off-site to avoid background checks.

There is general agreement about the need to close the gun show loophole. However, closing the current gun show loophole by creating new and bigger loopholes in federal law will not protect the public. Congress must assure that all of the above issues are addressed and crafting an effective solution.