

**RULES  
OF  
TENNESSEE BUREAU OF INVESTIGATION**

**CHAPTER 1395-1-3  
DIVISION OF TENNESSEE INSTANT CHECK SYSTEM PROGRAM**

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**1395-1-3-.01 PURPOSE AND SCOPE.**

To establish guidelines for Federal Firearms Licensees for performing inquiries through the Tennessee Instant Check System Program related to the sale or redemption of firearms.

*Authority:* T.C.A. §39-17-1316. *Administrative History:* Original rule filed November 6, 2001; effective March 30, 2002.

**1395-1-3-.02 DEFINITIONS.**

- (1) Account Information Form - Required form completed by the FFL and returned to the TBI TICS Unit along with the Federal Firearms License of the FFL prior to any transactions related to the transfer of firearms.
- (2) Alien - Any person not a citizen or national of the United States.
- (3) BATF - Bureau of Alcohol Tobacco and Firearms.
- (4) Business Day - A twenty-four (24) hour period beginning at 12:01 a.m., exclusive of the day on which a transaction takes place.
- (5) CHRI - Criminal history record information.
- (6) Consignment - type auction - Auction held on a regular basis (e.g., every 1-2 months) at which auctioneer takes possession of firearms pursuant to a consignment contract giving him/her the exclusive right and authority to sell the firearms at a location, time and date to be selected by the auctioneer and providing for a commission to be paid upon sale.
- (7) Controlled Substance - Defined in the Controlled Substances Act (21 U.S.C. 802).
- (8) Denial Database - A hardcopy collection of TICS denials and any accompanying documentation relevant to the decision-making process.
- (9) Estate - type auction - Auction at which auctioneer assists estate in selling the estate's firearms, and the firearms are possessed and transferred by the estate.
- (10) FBI - Federal Bureau of Investigation.
- (11) Federal Firearms License - License issued to an FFL by the BATF according to the Gun Control Act of 1968 to qualify as a licensed firearm dealer.

(Rule 1395-1-3-.02, continued)

- (12) Federal Form 4473 - Form provided by the BATF to record information regarding the purchase or transfer of firearms.
- (13) FFL - Federal Firearms Licensee.
- (14) FFL Number - A six-segment number assigned to dealers by the BATF for identification and compliance purposes.
- (15) Firearm - A weapon as described in Tenn. Code Ann. § 39-11-106, including handguns, long guns, and all other weapons which meet the definition.
- (16) Firearms Dealer - Any person:
  - (a) Engaged in the business of selling firearms at wholesale or retail;
  - (b) Engaged in the business of repairing firearms or of making or fitting special barrels, stocks, trigger mechanisms to firearms; or
  - (c) Who is a pawnbroker and deals in firearms.
- (17) GCA - Gun Control Act of 1968, 18 U.S.C. § 44.
- (18) Gun Shows - Locations where FFL's may legally transfer merchandise to display and sell firearms to individuals, other than at their regular business premises.
- (19) Handgun Permit - A permit issued by the Department of Safety according to the provisions of T.C.A. 39-17-1351.
- (20) III - Interstate Identification Index is a resident database of name indices and CHRI maintained by the FBI on individuals for whom the FBI has a fingerprint supported arrest history.
- (21) Juveniles - For the purposes of the TICS Program, any person under twenty-one (21) years of age.
- (22) Licensed Dealer - Any dealer who is licensed under the provisions of the Gun Control Act of 1968; *See also* FFL.
- (23) NCIC - National Crime Information Center is a database of information maintained by the FBI on wanted persons, stolen weapons, orders of protection and other specific criminal information.
- (24) Pawnbroker - Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.
- (25) Pawnshop - The location at which, or premises in which, a pawnbroker regularly conducts business.
- (26) POS - Point of Sale devices that are capable of running TICS checks from various locations electronically.
- (27) Redemption - A firearm transfer that occurs at a pawn shop, which is controlled by the GCA.
- (28) Resident - An individual who resides in the state in which the purchase is being made for at least ninety (90) days prior to proposed purchase.

(Rule 1395-1-3-.02, continued)

- (29) RIU - The Records and Identification Unit of the TBI.
- (30) Straw Purchase - A purchase or transfer of a firearm made by an individual who is not obtaining the firearm for himself/ herself or as a gift but rather for an individual who is disqualified from receiving or possessing a firearm.
- (31) TBI - Tennessee Bureau of Investigation.
- (32) The Brady Act - The commonly accepted name for 18 U.S.C.A. 922 that requires background checks on individuals attempting to purchase firearms, including individuals attempting to redeem pawned or pledged firearms.
- (33) Thumb Print Form - A form furnished to an FFL by the TBI TICS staff, upon request, on which the thumbprints of an individual purchasing or redeeming a firearm are kept.
- (34) TICS - Tennessee Instant Check System.
- (35) Transaction Number - The number given to the FFL by the TBI TICS staff to identify each individual firearm transaction.
- (36) Transfer - (of firearm) includes redemption from pawn as well as outright purchase.
- (37) Valid Appeal - A process in which a purchaser who is assigned a denied status after a TBI TICS check submits an appeal form, provided by the FFL, that is completely filled out and legible to the TBI TICS Unit requesting a review of the Instant Check decision.
- (38) Valid Identification - Identification 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. If the identification presented by the individual does not include a current address, the individual shall present a second piece of current identification that contains a current address; and
  - (b) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual; and
  - (c) Includes a photograph of the individual along with the name, address and date of birth, which is issued by a governmental entity for the purposes of identification of individuals.

**Authority:** T.C.A. §§39-17-1303, 39-17-1316, 18 U.S.C. § 44, 18 U.S.C. § 921, 18 U.S.C.A. § 925A, 26 U.S.C.A. § 5801 et seq., and 21 U.S.C. § 802. **Administrative History:** Original rule filed November 6, 2001; effective March 30, 2002.

### **1395-1-3-.03 TICS PROGRAM IN GENERAL.**

- (1) The TICS Program is responsible for conducting background checks for proposed transfers of firearms in Tennessee, except for transfers excluded in § 39-17-1316.
- (2) The TBI TICS Program shall remain open seven (7) days a week from the hours of eight o'clock a.m. to ten o'clock p.m. Central Standard Time (8:00 a.m.- 10:00 p.m. (CST)) and only close for Independence Day (July 4<sup>th</sup>), Thanksgiving Day and Christmas Day.

(Rule 1395-1-3-.03, continued)

- (3) The information obtained by the TBI TICS Unit shall be maintained in the following manner:
  - (a) TICS shall destroy all records pertaining to approved firearm transfers by the close of business on the day of the transaction except the transaction number and date the transaction occurred;
  - (b) TICS may keep all information pertaining to denied firearm transfers including, but not limited to, any investigative materials obtained to confirm the criminal history of the recipient and enter the information into a Denial Database, which the FBI NICS Unit and BATF shall have access to, upon request.

**Authority:** T.C.A. §39-17-1316. **Administrative History:** Original rule filed November 6, 2001; effective March 30, 2002.

#### **1395-1-3-.04 TICS PROGRAM INSTANT CHECKS REQUEST REQUIREMENTS.**

- (1) The primary owner/operator of a business shall establish an account with the TBI TICS Program prior to any check requests by meeting the following requirements:
  - (a) Completing the Account Information Form provided by the TBI TICS Unit; and
  - (b) Returning the completed Account Information Form to the TBI TICS Unit along with a copy of a valid Federal Firearms License; and
  - (c) Choosing a password to identify the business during any transaction and only allowing those employees with the authority to request TICS services access to the password.
- (2) The information on record with the TBI TICS Unit shall remain current and correct with any changes reported by repeating the application process outlined in section one (1).
- (3) Any request by an FFL for information shall be done by telephone, through an approved POS Unit, or any other method approved for access by the TBI, and the following information shall be provided to the TBI TICS operator:
  - (a) The federal firearms license number of the gun dealer, or the pertinent portion thereof as well as the FFL's self-assigned password;
  - (b) The business name of the gun dealer;
  - (c) The place of transfer, including the store location/ name or gun show location;
  - (d) The name of the salesperson 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 recipient;
  - (g) The social security number of the recipient, if one has been provided; and
  - (h) The type, issuer and identification number of the identification presented by the recipient.
- (4) The TBI TICS operator shall give the FFL a transaction number for all approvals and denials, and the transaction will be assigned one of the following statuses:

(Rule 1395-1-3-.04, continued)

- (a) Approved (means transaction may be completed);
  - (b) Denied (means transaction is prohibited); or
  - (c) Pending (means the TBI TICS Unit must investigate further before a final decision may be made, which shall occur within seventy-two (72) hours of the phone call). No transaction number will be provided to the FFL until the transaction is Approved or Denied.
- (5) The TBI TICS operator shall not give out any information other than the status of the transaction listed above. If the TBI TICS check reveals a record of stolen guns or wanted individuals in the NCIC system, then the TBI TICS operator shall immediately inform local law enforcement officials of such illegal activity and the location of the FFL.
  - (6) The FFL shall record the transaction number from the TBI TICS operator on the firearm transaction record and transaction thumbprint form, which is furnished by the TBI TICS Unit upon request.
  - (7) The TBI TICS operator may ask the FFL to send the thumbprint form to the TICS Unit in Nashville, Tennessee to verify the identity of the recipient.
  - (8) The FFL shall keep the thumbprint form for one (1) year or may keep the form for five (5) years while attached to the BATF Form 4473, which the TBI strongly recommends.
  - (9) A TICS check must be performed on persons redeeming firearms in pawnshops on each occasion. A TICS check may be performed on the person pawning the firearm prior to the FFL taking the firearm as collateral, but must be run again at the time the firearm is redeemed from pawn.
  - (10) A fee of \$10.00 will be charged for each background inquiry initiated, **regardless of the final approval or denial disposition**. This fee will be charged to the FFL's account and the account will be billed on a monthly basis. **THE FFL NUMBER MUST ACCOMPANY THE REMITTANCE** in some form, preferably in the appropriate memo space. Only business checks, money orders, or cashiers checks, made payable to the Tennessee Bureau of Investigation will be accepted. Any account with an unpaid balance past due 60 days will be closed until payment has been received, precluding further TICS checks and therefore any further firearms transfers. All payments received will be applied to the oldest outstanding invoice first. Checks returned for any reason will be subject to a \$20.00 charge. The FFL number is used to identify the FFL's unique account number and ensure proper billing. All payments must be mailed to:

**Tennessee Bureau of Investigation  
Fiscal Services – Instant Check  
901 R.S. Gass Boulevard  
Nashville, Tennessee 37216-2639**

- (11) Each transaction is valid for three (3) business days, or seventy-two (72) hours, after close of business on the day of the approval of the transaction, and any recipient who does not take possession of the firearm during the valid time period must undergo a new transaction in which a new fee will be charged.
- (12) An FFL may choose not to perform a TICS check on transfers of firearms to law enforcement officers only if all other provisions of the law governing transfers has been met, and it is advisable for the FFL to ask the law enforcement officer to produce a letter from his/her agency head stating that the officer is currently employed by the department and remains in good standing. Further, the agency

(Rule 1395-1-3-.04, continued)

head must provide the FFL a letter stating the officer is purchasing the firearm for on-duty use or else the FFL must run a TICS check on the officer.

- (13) An FFL **may** choose to perform a TICS check to determine if a firearm has been reported stolen, prior to taking the firearm as pawn collateral, and the TBI shall not charge the FFL for that inquiry.

**Authority:** T.C.A. §§39-17-1316 and 28 C.F.R. § 25.6. **Administrative History:** Original rule filed November 6, 2001; effective March 30, 2002.

#### **1395-1-3-.05 DENIALS.**

- (1) The TBI TICS shall issue a Denial for reasons including, but not limited to, the following:
- (a) Addiction to alcohol;
  - (b) Felony conviction punishable by imprisonment for one (1) year or more;
  - (c) Under indictment for an offense punishable by imprisonment for one (1) year or more;
  - (d) Fugitive from justice, including a felony or misdemeanor;
  - (e) Addicted to or unlawful user of any controlled substance;
  - (f) An adjudicated mental defective or has been committed to a mental institution;
  - (g) An alien who is illegally or unlawfully in the United States;
  - (h) Dishonorably discharged from the United States Armed Forces;
  - (i) Has renounced his/her United States citizenship;
  - (j) Conviction in any court of a misdemeanor crime of domestic violence;
  - (k) Subject to a court order issued after a hearing, during which he/she received actual notice, and that restrains him/her from committing domestic violence;
  - (l) Persons who are legally in the United States, but under non-immigrant status;
  - (m) Persons who have not been residents of Tennessee for at least ninety (90) days continuously prior to the proposed purchase;
  - (n) Persons who misuse the TICS Program in any way or provide false information to purchase or transfer a firearm;
  - (o) Individual prohibited from obtaining a firearm under any state or federal law not listed; or
  - (p) Any other disabling reason resulting from new or amended state or federal law.
- (2) All convictions on arrest charges will be determined by the law of the jurisdiction in which the individual was convicted.

(Rule 1395-1-3-.05, continued)

- (3) Juveniles may not legally purchase a handgun or handgun ammunition and persons under eighteen (18) years of age may not legally purchase a long gun or long gun ammunition.
- (4) The sale or transfer of a handgun to out-of-state residents by a Tennessee FFL is prohibited and the sale or transfer of a longgun to an out-of-state resident by a Tennessee FFL may be approved only under the following conditions:
  - (a) The FFL shall request a TICS check; and
  - (b) The transfer is legal in both states involved.
- (5) An individual who performs or attempts a straw purchase or transfer is in violation of the law and will be reported to the BATF.
- (6) An individual who has received a denied decision may find out the basis for the denial in the following manner:
  - (a) Request the appropriate appeal form and the transaction number from the FFL that handled the denied transaction; and
  - (b) Fill out the form and mail or fax it to the TBI TICS Unit within thirty (30) days.
- (7) The TBI TICS Unit must attempt to respond to any valid appeal in writing within five (5) business days and include the reason for denial and the proper procedure for challenging the denial.
- (8) An individual may appeal the decision of the TBI TICS Unit by sending the necessary documentation to support a challenge, including the final disposition of charges or expunction orders on official letterhead, **bearing certification from the department head of that agency**, to the TBI TICS Unit, and the following requirements apply to the appeals process:
  - (a) The burden of proof is on the individual to prove that information is incorrect or that the charge in question was dismissed or that the conviction has been expunged, set aside or pardoned;
  - (b) If applicable, the burden of proof is on the individual to prove that his/her civil rights have been restored and that the restoration of rights does not prohibit possession of a firearm under federal or state law; and
  - (c) The appeal will only be successful if the individual is not otherwise prohibited for any reason by the law of Tennessee from receiving or possessing a firearm.
- (9) The TBI TICS staff shall review the completed appeal documentation, and if the appeal is successful, the staff shall change the denied status to approved. If the successful appeal concerns an entry in TCIC the TBI TICS staff shall provide the proffered documentation to the TBI RIU for correction of the record. If the successful appeal concerns an entry in III the TBI TICS staff shall forward the proffered documentation to the FBI for correction of the record.
- (10) When a TICS check reveals an arrest for a potentially disqualifying offense with no disposition the transaction will be denied. The purchaser may appeal the denial by following the procedure outlined in paragraphs 6-9 above.

(Rule 1395-1-3-.05, continued)

**Authority:** T.C.A. §§39-17-1303, 39-17-1316, 40-29-101, 18 U.S.C.A. § 925A, 26 U.S.C.A. § 5801 et seq., and 21 U.S.C. § 802. **Administrative History:** Original rule filed November 6, 2001; effective March 30, 2002.

#### **1395-1-3-.06 GUN SHOWS.**

- (1) An FFL shall only transfer firearms at gun shows in the same state as that which is specified on the Federal Firearms License of the FFL.
- (2) A Tennessee FFL may display firearms in another state but cannot fill any order for purchase in another state.
- (3) A Tennessee FFL must return the firearms to Tennessee and may deliver firearms to an FFL in the state in which a sale or transfer will take place.
- (4) No TICS checks shall be performed at Tennessee gun shows for an out-of-state FFL and any sales or transfers made without such a TICS check will constitute the crime of engaging in business from an unlicensed location for which violators will be punished according to Tennessee law and reported to the BATF.

**Authority:** T.C.A. §§39-17-1316. **Administrative History:** Original rule filed November 6, 2001; effective March 30, 2002.

#### **1395-1-3-.07 AUCTIONS.**

- (1) Estate - type auctions do not require a federal firearms license.
- (2) Consignment - type auctions do require a federal firearms license.

**Authority:** T.C.A. §§39-17-1316, 18 U.S.C. § 921(a), 18 U.S.C. § 922(a)(1), 18 U.S.C. 923(a), and ATF Rul. 96-2. **Administrative History:** Original rule filed November 6, 2001; effective March 30, 2002.