

**SB281 ENGROSSED**



1 SB281  
2 CMCEQQW-2  
3 By Senator Melson  
4 RFD: Banking and Insurance  
5 First Read: 04-Apr-24



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to financial institutions; to provide definitions; to prohibit a governmental agency from creating or maintaining a list or registry of privately owned firearms or owners of firearms; to prohibit the use of firearms codes in certain circumstances; to prohibit a financial institution from declining a payment card transaction relating to a firearm retailer in certain circumstances; and to provide for civil remedies.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Second Amendment Financial Privacy Act.

Section 2. For the purposes of this act, the following terms have the following meanings:

(1) AMMUNITION. Any cartridge, shell, or projectile, or a component of any of the previous, designed for use in a firearm.

(2) ASSIGN or ASSIGNMENT. A financial institution's policy, process, or practice that labels, links, or otherwise associates a firearms code with a merchant or a payment card transaction in a manner that allows the financial institution



## SB281 Engrossed

29 or any other entity facilitating or processing the payment  
30 card transaction to identify whether a merchant is a firearm  
31 retailer or whether a transaction involves the sale of a  
32 firearm or ammunition.

33 (3) CUSTOMER. Any person or entity engaged in a payment  
34 card transaction facilitated or processed by a financial  
35 institution.

36 (4) FINANCIAL INSTITUTION. A person or entity other  
37 than a merchant involved in facilitating or processing a  
38 payment card transaction, including any bank, credit union as  
39 defined in Section 5-17-1, Code of Alabama 1975, acquirer, or  
40 payment card issuer.

41 (5) FIREARM. As defined in Section 13A-11-59, Code of  
42 Alabama 1975. The term also includes any component or  
43 accessory of a firearm.

44 (6) FIREARM RETAILER. Any person or entity that is  
45 physically located in this state and is engaged in the lawful  
46 selling or trading of firearms, antique firearms, or  
47 ammunition.

48 (7) FIREARMS CODE. A merchant category code approved by  
49 the international organization for standardization or an  
50 equivalent successor organization and specifically assigned to  
51 a firearm retailer.

52 (8) GOVERNMENTAL ENTITY. The state, or any political  
53 subdivision thereof, or any agency or instrumentality of the  
54 state.

55 (9) PAYMENT CARD. A credit card, charge card, debit  
56 card, or any other card that is issued to an authorized card



## SB281 Engrossed

57 user and allows the user to purchase goods or services from a  
58 merchant.

59 (10) PAYMENT CARD NETWORK. An entity that provides  
60 proprietary services, infrastructure, and software to conduct  
61 payment card transaction authorizations, clearances, and  
62 settlements, and software that an entity uses in order to  
63 accept as a form of payment a brand of payment card or other  
64 device that may be used to carry out payment card  
65 transactions. The term does not include any financial  
66 institution.

67 (11) PAYMENT CARD TRANSACTION. Any transaction in which  
68 a payment card is accepted as payment.

69 Section 3. (a) Except for records kept during the  
70 regular course of a criminal investigation or prosecution, or  
71 as otherwise required by law, a governmental entity, or agent  
72 or employee of a governmental entity, shall not knowingly keep  
73 or cause to be kept any list, record, or registry of privately  
74 owned firearms or the owners of firearms.

75 (b) Except as provided in subsections (d) and (e), a  
76 payment card network, or agent of a payment card network,  
77 shall not require the use of a firearms code in a way that  
78 distinguishes a firearm retailer from other retailers.

79 (c) Except as provided in subsections (d) and (e), a  
80 financial institution, or agent of a financial institution,  
81 shall not decline a payment card transaction involving a  
82 firearm retailer based solely on an assignment of a firearms  
83 code.

84 (d) Nothing in this section shall prohibit a payment



## SB281 Engrossed

85 card network or financial institution from declining or  
86 otherwise refusing to process a payment card transaction for  
87 any of the following reasons:

88 (1) To comply with applicable state or federal law.

89 (2) To comply with a request by a customer.

90 (3) To comply with fraud, credit, or compliance  
91 controls.

92 (4) For the purpose of merchant category exclusions  
93 offered by a financial institution for expenditure control or  
94 corporate card control.

95 (5) To restrict the use or availability of a firearms  
96 code in this state.

97 (e) Nothing in this section shall limit the authority  
98 of a financial institution or payment card network to  
99 negotiate with responsible parties or otherwise impair a  
100 financial institution's actions related to any of the  
101 following:

102 (1) Dispute processing.

103 (2) Fraud risk, compliance, credit management, or other  
104 controls in the ordinary course of business operations.

105 (3) Protecting against illegal activities, breach, or  
106 cyber risks.

107 (4) Restricting the use or availability of a firearms  
108 code in this state.

109 Section 4. (a) The Attorney General shall investigate  
110 reasonable allegations that a person or entity, including a  
111 governmental entity, has violated this act and, upon finding a  
112 violation, shall provide written notice to the person or



## SB281 Engrossed

113 entity believed to have committed the violation. The person or  
114 entity shall cease the violation within 60 business days after  
115 receiving written notice from the Attorney General pursuant to  
116 this section.

117 (b) (1) If a person or entity does not cease the  
118 violation within 60 business days after receiving written  
119 notice from the Attorney General pursuant to this section, the  
120 Attorney General shall file an action against the person or  
121 entity seeking an injunction.

122 (2) If the court finds that the person or entity  
123 violated this act and has not ceased the activity constituting  
124 the violation, the court shall enjoin the person or entity  
125 from continuing the activity and shall award court costs and  
126 reasonable attorney fees.

127 (3) If a person or entity purposefully fails to comply  
128 with an injunction issued pursuant to this section after 30  
129 business days of being served with the injunction, the  
130 Attorney General, upon petition to the court, shall seek to  
131 impose on the person or entity a civil fine in an amount not  
132 to exceed one thousand dollars (\$1,000) per violation. In  
133 assessing a civil fine, the court shall consider factors  
134 including, but not limited to, the financial resources of the  
135 violator and the harm or risk of harm to the rights under the  
136 Second Amendment to the United States Constitution resulting  
137 from the violation.

138 (4) Any order assessing a civil fine pursuant to this  
139 section shall be stayed pending appeal of the order.

140 (c) The Attorney General shall have exclusive authority



## SB281 Engrossed

141 to enforce this act. The remedies set forth in this section  
142 are the exclusive remedies for any violation of this act.

143 (d) It shall be a defense to a proceeding initiated  
144 pursuant to this section that a firearms code was required to  
145 be disclosed or assigned by law.

146 Section 5. This act shall become effective on October  
147 1, 2024.

**SB281 Engrossed**



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150 Senate

151 Read for the first time and referred .....04-Apr-24  
152 to the Senate committee on Banking  
153 and Insurance  
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155 Read for the second time and placed .....11-Apr-24  
156 on the calendar:  
157 0 amendments  
158  
159 Read for the third time and passed .....23-Apr-24  
160 as amended  
161 Yeas 32  
162 Nays 0  
163 Abstains 0  
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Patrick Harris,  
Secretary.

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