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SYNOPSIS:

This bill would prohibit a state agency or other political subdivision of the state, any court, or instrumentality of the state from keeping any record of privately owned firearms or registry of the owner of those firearms.

This bill would prohibit a payment card network from requiring merchants to use a merchant category code (MCC) to distinguish a firearm retailer from other retailers and would provide for exceptions.

This bill would provide for definitions.

The bill would prohibit a financial institution from declining a payment card transaction involving a firearm retailer based solely on an assignment of a firearms code and would provide for exceptions.

This bill would also authorize the Attorney General to investigate alleged violations of this act, to enforce this act by bringing an action to recover civil penalties, and to restrain and enjoin an individual or entity from violating this act.

A BILL
TO BE ENTITLED
AN ACT



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

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



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

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

65 (6) FIREARM RETAILER. Any person or entity that is
66 physically located in this state and is engaged in the lawful
67 selling or trading of firearms, antique firearms, or
68 ammunition.

69 (7) FIREARMS CODE. A merchant category code approved by
70 the international organization for standardization or an
71 equivalent successor organization and specifically assigned to
72 a firearm retailer.

73 (8) GOVERNMENTAL ENTITY. The state, or any political
74 subdivision thereof, or any agency or instrumentality of the
75 state.

76 (9) PAYMENT CARD. A credit card, charge card, debit
77 card, or any other card that is issued to an authorized card
78 user and allows the user to purchase goods or services from a
79 merchant.

80 (10) PAYMENT CARD NETWORK. An entity that provides
81 proprietary services, infrastructure, and software to conduct
82 payment card transaction authorizations, clearances, and
83 settlements, and software that an entity uses in order to
84 accept as a form of payment a brand of payment card or other



85 device that may be used to carry out payment card
86 transactions. The term does not include any financial
87 institution.

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

90 Section 3. (a) Except for records kept during the
91 regular course of a criminal investigation or prosecution, or
92 as otherwise required by law, a governmental entity, or agent
93 or employee of a governmental entity, shall not knowingly keep
94 or cause to be kept any list, record, or registry of privately
95 owned firearms or the owners of firearms.

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

100 (c) Except as provided in subsections (d) and (e), a
101 financial institution, or agent of a financial institution,
102 shall not decline a payment card transaction involving a
103 firearm retailer based solely on an assignment of a firearms
104 code.

105 (d) Nothing in this section shall prohibit a payment
106 card network or financial institution from declining or
107 otherwise refusing to process a payment card transaction for
108 any of the following reasons:

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

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

111 (3) To comply with fraud, credit, or compliance
112 controls.



113 (4) For the purpose of merchant category exclusions
114 offered by a financial institution for expenditure control or
115 corporate card control.

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

118 (e) Nothing in this section shall limit the authority
119 of a financial institution or payment card network to
120 negotiate with responsible parties or otherwise impair a
121 financial institution's actions related to any of the
122 following:

123 (1) Dispute processing.

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

126 (3) Protecting against illegal activities, breach, or
127 cyber risks.

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

130 Section 4. (a) The Attorney General shall investigate
131 reasonable allegations that a person or entity, including a
132 governmental entity, has violated this act and, upon finding a
133 violation, shall provide written notice to the person or
134 entity believed to have committed the violation. The person or
135 entity shall cease the violation within 60 business days after
136 receiving written notice from the Attorney General pursuant to
137 this section.

138 (b) (1) If a person or entity does not cease the
139 violation within 60 business days after receiving written
140 notice from the Attorney General pursuant to this section, the



141 Attorney General shall file an action against the person or
142 entity seeking an injunction.

143 (2) If the court finds that the person or entity
144 violated this act and has not ceased the activity constituting
145 the violation, the court shall enjoin the person or entity
146 from continuing the activity and shall award court costs and
147 reasonable attorney fees.

148 (3) If a person or entity purposefully fails to comply
149 with an injunction issued pursuant to this section after 30
150 business days of being served with the injunction, the
151 Attorney General, upon petition to the court, shall seek to
152 impose on the person or entity a civil fine in an amount not
153 to exceed one thousand dollars (\$1,000) per violation. In
154 assessing a civil fine, the court shall consider factors
155 including, but not limited to, the financial resources of the
156 violator and the harm or risk of harm to the rights under the
157 Second Amendment to the United States Constitution resulting
158 from the violation.

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

161 (c) The Attorney General shall have exclusive authority
162 to enforce this act. The remedies set forth in this section
163 are the exclusive remedies for any violation of this act.

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

167 Section 5. This act shall become effective on October
168 1, 2024.