

SECOND REGULAR SESSION

HOUSE BILL NO. 2778

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HALEY.

5766H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to the tracking of gun purchases by financial institutions, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.439, to read as follows:

407.439. 1. As used in this section, the following terms mean:

(1) "Customer", a person who uses, purchases, or obtains an account, extension of credit, or product of a financial institution or for whom a financial institution acts as a fiduciary, agent, or custodian or in another representative capacity;

(2) "Disclosure", the transfer, publication, or distribution of protected financial information to another person or entity for any purpose other than to process or facilitate a payment card transaction;

(3) "Financial institution", any state bank, state trust company, savings and loan association, federally chartered credit union doing business in this state, credit union chartered by the state of Missouri, national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in this state;

(4) "Financial record", a record held by a financial institution related to a payment card transaction that the financial institution has processed or facilitated;

(5) "Firearms code", the Merchant Category Code 5723 approved in September of 2022 by the International Organization for Standardization for firearms retailers;

(6) "Firearms retailer", any person or entity engaged in the lawful business of selling or trading firearms or ammunition to be used in firearms;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 (7) "Government entity", any county or municipality, or state board,
19 commission, agency, bureau, department, or any other political subdivision of the state.

20 2. (1) Except for those records kept during the regular course of a criminal
21 investigation and prosecution or as otherwise required by law, a governmental entity, or
22 any other person, public or private, other than the owner or owner's representative,
23 shall not knowingly and willfully keep or cause to be kept any list, record, or registry of
24 privately owned firearms or any list, record, or registry of the owners of those firearms.

25 (2) A financial institution or its agent shall not require the usage of the firearms
26 code in a way that distinguishes a firearms retailer physically located in the state of
27 Missouri from Missouri general merchandise retailers or sporting goods retailers.

28 (3) A financial institution shall not discriminate against a firearms retailer by:

29 (a) Declining a lawful payment card transaction based solely on the assignment
30 or nonassignment of a firearms code to the merchant or transaction;

31 (b) Limiting or declining to do business with a customer, potential customer, or
32 merchant based on the assignment or nonassignment of a firearms code to previous
33 lawful transactions involving the customer, potential customer, or merchant;

34 (c) Charging a higher transaction or interchange fee to any merchant or for a
35 lawful transaction based on the assignment or nonassignment of a firearms code; or

36 (d) Otherwise taking any action against a customer or merchant that is intended
37 to suppress lawful commerce involving firearms, firearm accessories or components, or
38 ammunition, which action is based solely or in part on the customer's or merchant's
39 business involving firearms, firearm accessories or components, or ammunition.

40 (4) Except as otherwise required by law, a financial institution shall not disclose
41 a financial record, including a firearms code that was collected in violation of this
42 section.

43 3. (1) The attorney general shall investigate alleged violations of this section and,
44 upon finding a violation, shall provide written notice to any individual or entity, public
45 or private, believed to be in violation of this section. Upon receipt of such written notice
46 from the attorney general, the entity shall have thirty calendar days to cease the
47 requirement for usage of the firearms code by a Missouri merchant physically located in
48 Missouri.

49 (2) Either a firearms retailer physically located in Missouri whose business was
50 the subject of an alleged violation of this section or a customer who transacted at a
51 firearms retailer physically located in Missouri whose business was the subject of an
52 alleged violation of this section may petition the attorney general to investigate the
53 alleged violation in accordance with subdivision (1) of this subsection.

54 **(3) If the attorney general does not commence an action within ninety days of**
55 **receiving a petition under this subsection, the firearms retailer or customer may file an**
56 **action in court to enjoin the individual or entity from requiring the firearms code in**
57 **violation of this section.**

58 **(4) If an individual or entity is found to be requiring the usage of the firearms**
59 **code by any merchant physically located in Missouri in violation of this section and fails**
60 **to cease the requirement for usage of the firearms code by any firearms retailer**
61 **physically located in Missouri after the expiration of thirty calendar days from the**
62 **receipt of written notice by the attorney general's office, the attorney general shall**
63 **pursue an injunction against any such individual or entity, public or private, alleged to**
64 **be in violation of this section. The attorney general shall pursue an injunction pursuant**
65 **to this subdivision in court in the judicial district where the alleged violation occurred**
66 **against the individual or entity in alleged violation of this section.**

67 **(5) If a court finds that an individual or entity continues to be in violation of this**
68 **section after thirty calendar days from receiving written notice from the attorney**
69 **general in accordance with subdivision (1) of this subsection or from a finding by the**
70 **court of a violation of this section in an action commenced under subdivision (3) of this**
71 **subsection, the court shall enjoin the individual or entity from continuing to require the**
72 **usage of the firearms code.**

73 **(6) If an individual or entity knowingly and willfully fails to comply with an**
74 **injunction as provided in subdivision (5) of this subsection within thirty days after being**
75 **served with the injunction, the court shall impose a civil penalty in a sum not to exceed**
76 **ten thousand dollars per violation of an injunction issued under subdivision (5) of this**
77 **subsection, committed after the expiration of the period of thirty days after the entity**
78 **was served with the injunction. In assessing such a penalty, the court shall consider**
79 **factors including the financial resources of the violator and the harm or risk of harm to**
80 **Second Amendment rights resulting from the violation. Any order assessing a penalty**
81 **for violation of this section pursuant to this subdivision shall be stayed pending appeal**
82 **of the order.**

83 **(7) In addition to the remedies provided in this subsection, the attorney general**
84 **or a petitioner who prevails in an action under this subsection shall recover reasonable**
85 **expenses incurred in obtaining the civil penalty, including court costs, reasonable**
86 **attorney's fees, investigative costs, witness fees, and deposition expenses.**

87 **(8) It shall not be a defense to a civil action filed under this subsection that such**
88 **information was disclosed to a federal government entity, unless such disclosure or**

89 **action was made based on a good faith conclusion that the disclosure or action was**
90 **required by federal law or regulation.**

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