

# SENATE BILL NO. 1361

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

4697S.011

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 314, RSMo, by adding thereto one new section relating to financial information pertaining to the purchase of firearms and firearm materials.

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

Section A. Chapter 314, RSMo, is amended by adding thereto  
2 one new section, to be known as section 314.400, to read as  
3 follows:

314.400. 1. This section shall be known and may be  
2 cited as the "Second Amendment Financial Privacy Act".

3 2. As used in this section, unless the context  
4 otherwise clearly indicates another meaning, the following  
5 terms mean:

6 (1) "Customer", a resident of this state engaged in a  
7 payment card transaction that a financial institution  
8 facilitates or processes;

9 (2) "Disclosure" or "disclose", the transfer,  
10 publication, or distribution of protected financial  
11 information to another person or entity for any purpose  
12 other than:

13 (a) To process or facilitate a payment card  
14 transaction; or

15 (b) To take any actions related to dispute processing,  
16 fraud management, or protecting transaction integrity from

concerns related to illegal activities, a data breach, or cyber risks;

(3) "Financial institution", an entity involved in facilitating or processing a payment card transaction, including, but not limited to, a bank, an acquirer, a payment card network, or a payment card issuer;

(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 merchant category code", the merchant category code 5723 approved in September of 2022 by the International Organization for Standardization for firearms retailers or any other indicator that a financial institution assigns to a merchant that identifies a merchant as a firearms retailer or the payment card transaction as involving the purchase of a firearm, firearm ammunition, ammunition components for use with firearms, or firearm accessories;

(6) "Firearms retailer", a person or entity physically located in this state and engaged in the lawful business of selling or trading firearms, ammunition, ammunition components for use with firearms, or firearm accessories;

(7) "Protected financial information", any record of a sale, purchase, return, or refund involving a payment card that is retrieved, characterized, generated, labeled, sorted, or grouped based on the assignment of a firearms merchant category code.

3. (1) A financial institution, or its agents, shall not require the usage of a firearms merchant category code by a firearms retailer physically located in this state in a manner that distinguishes a firearms retailer from a general merchandise retailer or a sporting goods retailer.

49           (2) A financial institution shall not discriminate  
50 against a firearms retailer by declining a lawful payment  
51 card transaction based solely on the assignment or  
52 nonassignment of a firearms merchant category code;  
53 provided, that a financial institution may decline or  
54 otherwise refuse to process the transaction on the basis of  
55 the firearms merchant category code only:

- 56           (a) If necessary to comply with this section;  
57           (b) If requested by the customer; or  
58           (c) Due to fraud controls or merchant category  
59 exclusions offered by a financial entity for the purpose of  
60 expenditure control or corporate card control.

61           (3) Except as otherwise required by law or regulation,  
62 a financial institution shall not disclose a financial  
63 record, including protected financial information, that was  
64 collected in violation of this section unless the disclosure  
65 of the financial record or protected financial information  
66 was based on a good-faith conclusion that the entity's  
67 action was required by applicable law or regulation.

68           (4) This section shall not limit the ability of a  
69 financial institution to negotiate with responsible parties  
70 or otherwise impair the financial institution's actions  
71 related to dispute processing, fraud management, or  
72 protecting transaction integrity from concerns related to  
73 illegal activities, a data breach, or cyber risks.

74           4. (1) The attorney general shall investigate alleged  
75 violations of this section and, upon finding a violation,  
76 shall provide written notice to any individual or entity  
77 believed to be in violation. Written notice to a commercial  
78 entity shall be made to the entity's registered agent. Upon  
79 receipt of the written notice from the attorney general, the

entity shall cease any violation of this section within thirty calendar days.

(2) A firearms retailer physically located in this state whose business was the subject of an alleged violation of this section or a customer who transacted at a firearms retailer physically located in this state whose business was the subject of an alleged violation of this section, may petition the attorney general to investigate an alleged violation of this section.

(3) (a) If an individual or entity is found to be in violation of this section and fails to cease the violating activity after the expiration of thirty calendar days from the receipt of written notice by the attorney general's office, then the attorney general shall pursue an injunction against the individual or entity alleged to be in violation of this section. The attorney general may pursue an injunction pursuant to this section in the circuit court where the alleged violation occurred.

(b) If a court finds that an individual or entity continues to be in violation of this section after thirty calendar days from receiving written notice from the attorney general in accordance with subdivision (1) of this subsection, then the court shall enjoin the individual or entity from continuing the activity found to be in violation of this section.

(c) If an individual or entity knowingly and willfully fails to comply with an injunction issued pursuant to paragraph (b) of this subdivision within thirty days after being served with the injunction, then the attorney general, upon petition to the court, may recover on behalf of the state a civil penalty in a sum not to exceed ten thousand dollars for each violation committed after the expiration of

112 the thirty-day period provided in subdivision (1) of this  
113 subsection. In assessing a penalty, the court shall  
114 consider the financial resources of the violator and the  
115 harm or risk of harm to the rights afforded to the  
116 individual pursuant to the Second Amendment of the United  
117 States Constitution resulting from the violation. The  
118 attorney general may also recover, in addition to the civil  
119 penalty pursuant to this subsection, investigative costs and  
120 reasonable attorney's fees. An order assessing a penalty  
121 for violation of this section shall be stayed pending appeal  
122 of the order.

123 (4) It is an affirmative defense to a proceeding  
124 initiated pursuant to this section that the firearms  
125 merchant category code was required to be used based on a  
126 good-faith conclusion that the entity's disclosure or action  
127 was required by applicable law or regulation.

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