

SENATE BILL NO. 216

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

0222S.01H

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 one new section, to be known as section 314.400, to read as follows:

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

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

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

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

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

(b) To take any actions related to dispute processing, fraud management, or protecting transaction integrity from concerns related to illegal activities, a data breach, or cyber risks;

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

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

26 (5) "Firearms merchant category code", the merchant
27 category code 5723 approved in September of 2022 by the
28 International Organization for Standardization for firearms
29 retailers or any other indicator that a financial
30 institution assigns to a merchant that identifies a merchant
31 as a firearms retailer or the payment card transaction as
32 involving the purchase of a firearm, firearm ammunition,
33 ammunition components for use with firearms, or firearm
34 accessories;

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

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

44 3. (1) A financial institution, or its agents, shall
45 not require the usage of a firearms merchant category code
46 by a firearms retailer physically located in this state in a
47 manner that distinguishes a firearms retailer from a general
48 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
80 entity shall cease any violation of this section within
81 thirty calendar days.

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

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

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

105 (c) If an individual or entity knowingly and willfully
106 fails to comply with an injunction issued pursuant to
107 paragraph (b) of this subdivision within thirty days after
108 being served with the injunction, then the attorney general,
109 upon petition to the court, may recover on behalf of the
110 state a civil penalty in a sum not to exceed ten thousand
111 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.

✓