

By: Representatives Owen, Barnett, Bennett, To: Judiciary B
Boyd (19th), Carpenter, Currie, Darnell,
Felsher, Ford (73rd), Hobgood-Wilkes,
Hopkins, Hulum, Lancaster, McCarty, McLean,
Morgan, Newman, Pigott, Read, Scoggin,
Shanks, Wallace, Williamson, Steverson, Bounds, Crawford

HOUSE BILL NO. 1110

1 AN ACT TO CREATE THE "SECOND AMENDMENT FINANCIAL PRIVACY
2 ACT"; TO PROVIDE LEGISLATIVE FINDINGS; TO DEFINE CERTAIN TERMS
3 RELATING TO THE ACT; TO PROHIBIT A FINANCIAL INSTITUTION FROM
4 USING A FIREARMS CODE TO ENGAGE IN THE CERTAIN DISCRIMINATORY
5 CONDUCT IN THE STATE; TO PROHIBIT A FINANCIAL INSTITUTION FROM
6 DISCLOSING A CUSTOMER'S PROTECTED FINANCIAL INFORMATION, EXCEPT
7 OTHERWISE PROVIDED FOR BY MISSISSIPPI LAW OR CUSTOMER CONSENT OF
8 DISCLOSURE; TO AUTHORIZE A PERSON TO BRING A CIVIL ACTION FOR
9 DAMAGES AGAINST ANY FINANCIAL INSTITUTION OR GOVERNMENT ENTITY
10 THAT CAUSES THE PERSON'S PROTECTED FINANCIAL INFORMATION TO BE
11 DISCLOSED IN VIOLATION OF THIS ACT; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** This act shall be known and may be cited as the
14 "Second Amendment Financial Privacy Act".

15 **SECTION 2.** The Legislature finds that:

16 (a) The Second Amendment to the United States
17 Constitution guarantees the people the right to keep and bear
18 arms;

19 (b) Article III, Section 12, of the Mississippi
20 Constitution provides that "The right of every citizen to keep and
21 bear arms in defense of his home, person, or property, or in aid
22 of the civil power when thereto legally summoned, shall not be



23 called in question, but the Legislature may regulate or forbid
24 carrying concealed weapons";

25 (c) In September 2022, the world's three largest
26 payment card networks publicly announced that they would assign a
27 unique Merchant Category Code to firearms retailers accepting
28 payment cards for purchases;

29 (d) In the letter to payment card networks, federal
30 lawmakers stated that the new Merchant Category Code for firearms
31 retailers would be ". . .the first step towards facilitating the
32 collection of valuable financial data that could help law
33 enforcement in countering the financing of terrorism efforts",
34 expressing a clear government expectation that networks will
35 utilize the new Merchant Category Code to conduct mass
36 surveillance of constitutionally protected firearms and ammunition
37 purchases in cooperation with law enforcement;

38 (e) The new Merchant Category Code will allow the
39 banks, payment card networks, acquirers, and other entities
40 involved in payment card processing to identify and separately
41 track lawful payment card purchases at firearms retailers in the
42 State of Mississippi, paving the way for both unprecedented
43 surveillance of Second Amendment activity and unprecedented
44 information sharing between financial institutions and the
45 government;

46 (f) This potential for cooperative surveillance and
47 tracking of lawful firearms and ammunition purchases will have a



48 significant chilling effect on citizens wishing to exercise their
49 federal and state constitutional rights to keep and bear arms in
50 Mississippi;

51 (g) While federal law requires some financial
52 institutions to report transactions that are highly indicative of
53 money laundering or other unlawful activities, there is no federal
54 or state law authorizing financial institutions to surveil and
55 track lawful activities by customers in cooperation with law
56 enforcement; and

57 (h) Based on the above stated findings, it is the
58 intent of the Legislature to prohibit the misuse of payment card
59 processing systems to surveil, report, or otherwise discourage
60 constitutionally protected firearm and ammunition purchases within
61 the State of Mississippi.

62 **SECTION 3.** As used in this act, the following words shall
63 have the meanings as defined in this section, unless the context
64 clearly indicates otherwise:

65 (a) "Assign" or "assignment" means a financial
66 institution policy, process, or practice that labels, links, or
67 otherwise associates a firearms code with a merchant or payment
68 card transaction in a manner that allows the financial institution
69 or any other entity facilitating or processing the payment card
70 transaction to identify whether a merchant is a firearms retailer
71 or whether a transaction involves the sale of firearms or
72 ammunition.



73 (b) "Customer" means any person engaged in a payment
74 card transaction that a financial institution facilitates or
75 processes.

76 (c) "Disclosure" means the transfer, publication, or
77 distribution of protected financial information to another person
78 or entity for any purpose other than to process or facilitate a
79 payment card transaction.

80 (d) "Financial institution" means an entity involved in
81 facilitating or processing a payment card transaction, including,
82 but not limited to, a bank, acquirer, payment card network, or
83 payment card issuer.

84 (e) "Financial record" means a record held by a
85 financial institution related to a payment card transaction that
86 the financial institution has processed or facilitated.

87 (f) "Firearms retailer" means any person or entity
88 engaged in the lawful business of selling or trading firearms or
89 ammunition to be used in firearms.

90 (g) "Firearms code" means any code or other indicator
91 that a financial institution assigns to a merchant or to a payment
92 card transaction that identifies whether a merchant is a firearms
93 retailer or whether the payment card transaction involves the
94 purchase of a firearm or ammunition. The term "firearms code"
95 includes, but is not limited to, a Merchant Category Code assigned
96 to a retailer by a payment card network or other financial
97 institution.



98 (h) "Government entity" means any county or
99 municipality, or state board, commission, agency, bureau,
100 department, or any other political subdivision of the state.

101 (i) "Protected financial information" means any record
102 of a sale, purchase, return, or refund involving a payment card
103 that is retrieved, characterized, generated, labeled, sorted, or
104 grouped based on the assignment of a firearms code.

105 **SECTION 4.** A financial institution shall not use a firearms
106 code to engage in the following discriminatory conduct:

107 (a) Declining a lawful payment card transaction based
108 on the assignment of a firearms code to the merchant or
109 transaction;

110 (b) Limiting or declining to do business with a
111 customer or potential customer based on the assignment of a
112 firearms code to previous lawful transactions involving the
113 customer or potential customer;

114 (c) Charging a higher transaction or interchange fee
115 for a lawful transaction, as compared to the fee charged for a
116 similar transaction, based on the assignment of a firearms code;
117 or

118 (d) Otherwise taking any action against a customer or
119 merchant that is intended to suppress lawful commerce involving
120 firearms or ammunition.



121 **SECTION 5.** Notwithstanding any other provision of law to the
122 contrary, a financial institution is prohibited from disclosing a
123 customer's protected financial information unless:

124 (a) Disclosure is expressly permitted under state law,
125 and the protected financial information is not singled out,
126 segregated, or disclosed based on the assignment of a firearms
127 code;

128 (b) Disclosure is made pursuant to a valid warrant
129 issued in a criminal investigation, stating the grounds or
130 probable cause for its issuance;

131 (c) The customer has consented to disclosure; or

132 (d) Disclosure is made pursuant to a subpoena or to a
133 grand jury subpoena.

134 **SECTION 6.** (1) A person may bring a civil action for
135 damages against any financial institution or government entity
136 that causes the person's protected financial information to be
137 disclosed in violation of this act.

138 (2) If a court finds that a violation of this act has
139 occurred as the result of a civil action filed under subsection
140 (1) of this section, the court shall award reasonable attorney's
141 fees to the aggrieved party. A court may order such other relief,
142 including an injunction, as the court may consider appropriate.

143 (3) It shall not be a defense to a civil action filed under
144 this act that such information was disclosed to a federal



145 government entity, if such disclosure is neither required nor
146 authorized by federal law or regulation.

147 **SECTION 7.** This act shall take effect and be in force from
148 and after July 1, 2023.

