

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

HOUSE BILL NO. 1110 (As Sent to Governor)

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 STATE AGENCY OR OTHER POLITICAL
4 SUBDIVISION OF THE STATE, OR ANY OTHER PERSON, PUBLIC OR PRIVATE,
5 FROM KEEPING ANY RECORD OF PRIVATELY OWNED FIREARMS, OR REGISTRY
6 OF THE OWNER OF THOSE FIREARMS; TO PROHIBIT A FINANCIAL
7 INSTITUTION FROM USING A FIREARMS CODE TO ENGAGE IN CERTAIN
8 DISCRIMINATORY CONDUCT IN THE STATE; TO AUTHORIZE THE ATTORNEY
9 GENERAL TO INVESTIGATE ALLEGED VIOLATIONS OF THIS ACT; TO
10 AUTHORIZE THE ATTORNEY GENERAL TO PURSUE AN INJUNCTION AGAINST ANY
11 ENTITY OR INDIVIDUAL IN VIOLATION OF THIS ACT; AND FOR RELATED
12 PURPOSES.

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

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

16 SECTION 2. The Legislature finds that:

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

20 (b) Article III, Section 12, Mississippi Constitution
21 of 1890, provides that "The right of every citizen to keep and
22 bear arms in defense of his home, person, or property, or in aid
23 of the civil power when thereto legally summoned, shall not be



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

26 (c) In September 2022, the International Organization
27 for Standardization (ISO), based in Switzerland, approved a new
28 merchant category code for firearm and ammunition merchants;

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) This potential for cooperative surveillance and
39 tracking of lawful firearms and ammunition purchases will have a
40 significant chilling effect on citizens wishing to exercise their
41 federal and state constitutional rights to keep and bear arms in
42 Mississippi;

43 (f) While federal law requires some financial
44 institutions to report transactions that are highly indicative of
45 money laundering or other unlawful activities, there is no federal
46 or state law authorizing financial institutions to surveil and
47 track lawful activities by customers in cooperation with law
48 enforcement;



49 (g) The creation or maintenance of records of purchases
50 of firearms or ammunition or the tracking of sales made by a
51 retailer of firearms or ammunition by a nongovernmental entity,
52 including a financial institution, without a substantial and
53 historical business need or a requirement imposed by law, may
54 frustrate the right to keep and bear arms and violate the
55 reasonable privacy rights of lawful purchasers of firearms or
56 ammunition; 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) "Customer" means any resident of Mississippi
66 engaged in a payment card transaction that a financial institution
67 facilitates or processes.

68 (b) "Disclosure" or "disclose" means the transfer,
69 publication, or distribution of protected financial information to
70 another person or entity for any purpose other than: (i) to
71 process or facilitate a payment card transaction; or (ii) to take
72 any actions related to dispute processing, fraud management, or



73 protecting transaction integrity from concerns related to illegal
74 activities, breach or cyber risks.

75 (c) "Financial institution" means an entity involved in
76 facilitating or processing a payment card transaction, including,
77 but not limited to, a bank, an acquirer, payment card network, or
78 payment card issuer.

79 (d) "Financial record" means a record held by a
80 financial institution related to a payment card transaction that
81 the financial institution has processed or facilitated.

82 (e) "Firearms retailer" means any person or entity
83 physically located in the State of Mississippi engaged in the
84 lawful business of selling or trading firearms or ammunition to be
85 used in firearms.

86 (f) "Firearms code" means the Merchant Category Code
87 5723 approved in September 2022 by the International Organization
88 for Standardization for firearms retailers.

89 (g) "Government entity" means any county or
90 municipality, or state board, commission, agency, bureau,
91 department, or any other political subdivision of the state.

92 (h) "Protected financial information" means any record
93 of a sale, purchase, return, or refund involving a payment card
94 that is retrieved, characterized, generated, labeled, sorted, or
95 grouped based on the assignment of a firearms code.

96 **SECTION 4.** (1) Except for those records kept during the
97 regular course of a criminal investigation and prosecution or as



98 otherwise required by law, a state governmental agency or local
99 government, special district, or other political subdivision or
100 official, agent, or employee of the state or other governmental
101 entity or any other person, public or private, other than the
102 owner or owner's representative, may not knowingly and willfully
103 keep or cause to be kept any list, record, or registry of
104 privately owned firearms or any list, record, or registry of the
105 owners of those firearms.

106 (2) A financial institution or its agent may not require the
107 usage of the firearms code in a way that distinguishes a firearms
108 retailer physically located in the State of Mississippi from
109 general merchandise retailers or sporting goods retailers.

110 (3) A financial institution may not discriminate against a
111 firearms retailer by declining a lawful payment card transaction
112 based solely on the assignment or nonassignment of a firearms
113 code; provided that a financial entity may decline or otherwise
114 refuse to process the transaction on the basis of the firearms
115 code only if necessary to comply with this section or if requested
116 by the customer or due to fraud controls or merchant category
117 exclusions offered by a financial entity for the purpose of
118 expenditure control or corporate card control.

119 (4) Except as otherwise required by law or regulation, a
120 financial institution may not disclose a financial record,
121 including a firearms code that was collected in violation of this
122 act, unless the disclosure of such financial record or firearms



123 code was based on a good-faith conclusion that the entity's action
124 was required by applicable law or regulation.

125 (5) Nothing in this section shall limit the ability of a
126 financial institution to negotiate with responsible parties or
127 otherwise impair the financial institution's actions related to
128 dispute processing, fraud management, protecting transaction
129 integrity from concerns related to illegal activities, breach or
130 cyber risks.

131 **SECTION 5.** (1) The Attorney General may investigate alleged
132 violations of this act and, upon finding a violation, shall
133 provide written notice to any individual or entity, public or
134 private, believed to be in violation of this act. Written notice
135 to any commercial entity shall be made to the entity's registered
136 agent pursuant to Section 79-35-13. Upon receipt of such written
137 notice from the Attorney General, the entity shall have thirty
138 (30) calendar days to cease any violation of this act.

139 (2) Either a firearms retailer physically located in
140 Mississippi whose business was the subject of an alleged violation
141 of this act or a customer who transacted at a firearms retailer
142 physically located in Mississippi whose business was the subject
143 of an alleged violation of this act, may petition the Attorney
144 General to investigate the alleged violation in accordance with
145 subsection (1) of this section.

146 (3) (a) If an individual or entity is found to be in
147 violation of this act and fails to cease the violating activity



148 after the expiration of thirty (30) calendar days from the receipt
149 of written notice by the Attorney General's office, the Attorney
150 General may pursue an injunction against any individual or entity,
151 public or private, alleged to be in violation of this act. The
152 Attorney General may pursue an injunction pursuant to this
153 subsection in chancery court in the judicial district where the
154 alleged violation occurred against the individual or entity in
155 alleged violation of this act.

156 (b) If a court finds that an individual or entity
157 continues to be in violation of this act after thirty (30)
158 calendar days from receiving written notice from the Attorney
159 General in accordance with subsection (1) of this section, then
160 the court shall enjoin the individual or entity from continuing
161 the activity found to be in violation of this act.

162 (c) If an individual or entity knowingly and willfully
163 fails to comply with an injunction as provided in paragraph (b) of
164 this subsection within thirty (30) days after being served with
165 the injunction, then the Attorney General, upon petition to the
166 court, may recover on behalf of the state a civil penalty in a sum
167 not to exceed Ten Thousand Dollars (\$10,000.00) per violation of
168 an injunction issued pursuant to paragraph (b) of this subsection,
169 committed after the expiration of the period of thirty (30) days
170 after the entity was served with the injunction. In assessing
171 such a penalty, the court shall consider factors, including the
172 financial resources of the violator and the harm or risk of harm



173 to the Second Amendment rights resulting from the violation. The
174 Attorney General may also recover, in addition to the civil
175 penalty pursuant to this subsection, investigative costs and a
176 reasonable attorney's fee. Any order assessing a penalty for
177 violation of this act pursuant to this paragraph shall be stayed
178 pending appeal of the order.

179 (d) The remedies set forth in this act shall be the
180 exclusive remedies for violation of this act.

181 (e) It shall be a defense to a proceeding initiated
182 pursuant to this act that such firearms code was required to be
183 used based on a good-faith conclusion that the entity's disclosure
184 or action was required by applicable law or regulation.

185 **SECTION 6.** This act shall take effect and be in force from
186 and after January 1, 2024.

