

SENATE BILL NO. 1128

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

3385S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 314, RSMo, by adding thereto one new section relating to firearm privacy, with penalty provisions.

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 314.405, to read as
3 follows:

314.405. 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, the following terms mean:

4 (1) "Ammunition", ammunition or cartridge cases,
5 primers, bullets, or propellant powder designed for use in
6 any firearm;

7 (2) "Assign" or "assignment", a covered entity's
8 policy, process, or practice that labels, links, or
9 otherwise associates a merchant category code with a
10 merchant or a payment card transaction in a manner that
11 allows the covered entity or any other entity facilitating
12 or processing the payment card transaction to identify
13 whether a merchant is a firearm retailer or whether a
14 transaction involves the sale of firearms or ammunition;

15 (3) "Covered entity", an entity, or agent of an
16 entity, that establishes a relationship with a retailer for

17 the purpose of processing credit, debit, or prepaid
18 transactions;

19 (4) "Firearm", the same meaning as is ascribed to the
20 term in section 571.010, or any firearm component or
21 accessory;

22 (5) "Firearm retailer", any person or entity that is
23 physically located in this state and is engaged in the
24 lawful selling or trading of firearms, antique firearms, or
25 ammunition to be used in firearms or antique firearms;

26 (6) "Government entity", the state, a political
27 subdivision of the state, or any court, agency, or
28 instrumentality of the state or a political subdivision of
29 the state;

30 (7) "Merchant category code", the code, approved by
31 the International Organization for Standardization or an
32 equivalent successor organization specifically for firearm
33 retailers, that is assigned to a retailer based on the types
34 of goods and services offered to a retailer's customers;

35 (8) "Payment card", a credit card, charge card, debit
36 card, or any other card that is issued to a customer and
37 allows the customer to purchase goods or services from a
38 merchant;

39 (9) "Payment card network", an entity, or agent of an
40 entity, that provides the proprietary services,
41 infrastructure, or software to conduct payment card
42 transaction authorizations, clearances, and settlements, and
43 that an entity uses to accept as a form of payment a brand
44 of payment card or other device that may be used to carry
45 out debit or credit transactions;

46 (10) "Payment card transaction", any transaction in
47 which a payment card is accepted as payment.

48 3. Except for those records kept during the regular
49 course of a criminal investigation and prosecution, or as
50 otherwise required by law, no government entity or official
51 and no agent or employee of a government entity shall
52 knowingly keep or cause to be kept any list, record, or
53 registry of privately owned firearms or the owners of those
54 firearms.

55 4. No payment card network shall require or
56 incentivize the use of a merchant category code in a manner
57 that distinguishes a firearm retailer from other retailers.

58 5. No covered entity shall assign a firearm retailer a
59 merchant category code that distinguishes the firearm
60 retailer from other retailers.

61 6. The attorney general shall investigate reasonable
62 allegations that a person or entity, including a government
63 entity, has violated the provisions of this section and,
64 upon finding a violation, provide written notice to the
65 person or entity believed to have committed the violation.
66 The person or entity shall cease the violation within thirty
67 business days after receiving written notice from the
68 attorney general in accordance with this section.

69 7. (1) If a person or entity does not cease the
70 violation within thirty days after receiving written notice
71 from the attorney general in accordance with this section,
72 the attorney general shall file an action against that
73 person or entity to seek an injunction.

74 (2) If the court finds that the person or entity
75 violated the provisions of this section and has not ceased
76 the activity constituting the violation, the court shall
77 enjoin the person or entity from continuing such activity
78 and shall award attorney fees and costs.

79 (3) If a person or entity purposely fails to comply
80 with an injunction issued in accordance with this subsection
81 after thirty business days of being served with the
82 injunction, the attorney general, upon petition to the
83 court, shall seek to impose on that person or entity a civil
84 penalty in an amount not to exceed one thousand dollars per
85 violation. In assessing such a civil penalty, the court
86 shall consider factors resulting from the violation,
87 including the financial resources of the violator and the
88 harm or risk of harm to the rights under the Second
89 Amendment to the United States Constitution and article I,
90 section 23 of the Missouri Constitution.

91 (4) Any order assessing a civil penalty in accordance
92 with this subsection shall be stayed pending appeal of the
93 order.

94 8. The attorney general has exclusive authority to
95 enforce the provisions of this section. The remedies set
96 forth in this section are the exclusive remedies for any
97 violation of this section.

98 9. It shall be a defense to a proceeding initiated in
99 accordance with this section that a merchant category code
100 was required to be permitted or assigned by law.

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