
DIGEST

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SB 301 Reengrossed

2024 Regular Session

Miguez

Proposed law provides for the creation of "The Second Amendment Financial Privacy Act".

Proposed law provides for definitions.

Proposed law provides that except for those records kept during the regular course of a criminal investigation and prosecution, or as otherwise required by law, no government entity or official, and no agent or employee of a governmental entity shall knowingly keep or cause to be kept any list, record, or registry of privately owned firearms or the owners of those firearms.

Proposed law provides that a payment card network shall not require or incentivize the use of a merchant category code in a manner that distinguishes a firearm retailer from other retailers.

Proposed law provides that no financial institution or agent of a financial institution shall decline a payment card transaction involving a firearms retailer based solely on assignment of a firearms code, except as provided in proposed law.

Proposed law provides that a covered entity shall not assign a firearm retailer a merchant category code that distinguishes the firearm retailer from other retailers.

Proposed law provides that the attorney general shall investigate reasonable allegations that a person or entity, including a government entity, has violated proposed law and, upon finding violation, provide written notice to the person or entity believed to have committed the violation.

Proposed law provides that if a person or entity does not cease the violation within 30 business days after receiving written notice from the attorney general pursuant to proposed law, the attorney general shall file an action against that person or entity to seek an injunction.

Proposed law provides that if the court finds that the person or entity violated proposed law and has not ceased the activity constituting the violation, the court shall enjoin the person or entity from continuing such activity and shall award attorney fees, court costs, and any other relief as the court considers appropriate.

Proposed law provides that if a person or entity purposely fails to comply with an injunction issued under proposed law after 30 business days of being served with the injunction, the attorney general, upon petition to the court, shall seek to impose on that person or entity a civil fine in an amount not to exceed \$1,000 per violation. In assessing the fine, the court shall consider factors, including the financial resources of the violator and the harm or risk of harm to the rights under proposed law.

Proposed law provides that any order assessing a civil fine pursuant to proposed law shall be stayed pending appeal of the order.

Proposed law provides that the attorney general has exclusive authority to enforce proposed law. The remedies set forth in proposed law are the exclusive remedies for any violation of proposed law.

Proposed law provides that it shall be a defense to a proceeding initiated pursuant to proposed law that a firearms code was required to be disclosed or assigned by law.

Effective August 1, 2024.

(Adds R.S. 51:3300-3303)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Adds credit unions to the definition of "financial institutions"
2. Redefines "firearm retailer" as any person or entity that is physically located in this state and is engaged in the lawfully selling or trading firearms, antique firearms, or ammunition to be used in firearms or antique firearms.
3. Adds a definition of "Payment card network".
4. Provides that no payment card network or agent shall require the assignment of a firearms code in a way that distinguishes a firearms retailer from other retailers.
5. Provides that no financial institutions or its agent shall decline a payment card transaction involving a firearms retailer based solely on assignment of a firearms code.
6. Adds that proposed law does not prohibit a payment card network from declining or refusing to process a payment card transaction for certain reasons, including reasons for compliance with state and federal law and due to fraud, credit, or compliance controls.
7. Clarifies that proposed law does not prohibit the authority of a financial institution or payment card network from negotiating with responsible parties for certain reasons.
8. Authorizes the court to award attorney fees and costs for a violation of proposed law.
9. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Exclude payment card networks from the definition of a financial institution as defined in proposed law.
2. Provide that district attorneys have authority to investigate allegations regarding proposed law.
3. Provide that district attorneys have concurrent jurisdiction with the attorney general to enforce proposed law.
4. Specify that proposed law references to "days" means "business days".
5. Require that notice required by proposed law be in writing.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the reengrossed bill:

1. Define the terms "covered entity" and "merchant category code" and use the terms accordingly throughout proposed law.

2. Remove the definitions and use of "financial institution" and "firearms code" from proposed law.
3. Amend the definitions of "payment card" and "payment card network".
4. Remove certain financial privacy exceptions and prohibitions.
5. Prohibit a payment card network from requiring or incentivizing the use of a merchant category code to distinguish firearm retailers from other retailers.
6. Prohibit a covered entity from assigning a merchant category code to distinguish firearm retailers from other retailers.
7. Remove exclusive authority of district attorneys to enforce the provisions of proposed law and leave exclusive authority with the attorney general.
8. Make technical changes.