

2024 Regular Session

SENATE BILL NO. 301

BY SENATOR MIGUEZ

BANKS/BANKING. Provides for transactions involving firearms and ammunition retailers.
(8/1/24)

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AN ACT

To enact Chapter 67 of Title 51 of the Louisiana Revised Statutes of 1950 to be comprised of R.S. 51:3300 through R.S. 51:3303, relative to firearms and ammunition retailers; to provide relative to payment card transactions involving firearms and ammunition retailers; to provide for definitions; to provide for violations; to provide for remedies; to provide relative to terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 67 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:3300 through R.S. 51:3303, is hereby enacted to read as follows:

CHAPTER 67. THE SECOND AMENDMENT FINANCIAL PRIVACY ACT

§3300. Short Title

This Chapter shall be known and may be cited as "The Second Amendment Financial Privacy Act".

§3301. Definitions

As used in this Chapter, the following words and phrases shall have the following meanings:

1 (1) "Ammunition" means any cartridge shell, or projectile designed for
2 use in a firearm and includes any ammunition component.

3 (2) "Assign" or "assignment" refers to a financial institution's policy,
4 process or practice that labels, links, or otherwise associates a firearms code
5 with a merchant or a payment card transaction in a manner that allows the
6 financial institution or any other entity facilitating or processing the payment
7 card transaction to identify where a merchant is a firearm retailer or whether
8 a transaction involves the sale of firearms or ammunition.

9 (3) "Customer" means any person or entity engaged in a payment card
10 transaction facilitated or processed by a financial institution.

11 (4) "Financial institution" means a person or entity other than a
12 merchant involved in facilitating or processing a payment card transaction,
13 including any bank, as defined in R.S. 6:2, acquirer, payment card issuer,
14 payment card network, payment gateway, or payment card processor.

15 (5) "Firearm" has the same meaning as in R.S. 40:1781 and includes a
16 firearm component or accessory.

17 (6) "Firearm retailer" means any person or entity that is lawfully
18 engaged, from a physical place of business in this state, in selling or trading
19 firearms, antique firearms, or ammunition to be used in firearms or antique
20 firearms.

21 (7) "Firearms code" means a merchant category code approved by the
22 international organization for standardization or an equivalent successor
23 organization, and specifically assigned to a firearm retailer.

24 (8) "Government entity" means the state, a political subdivision of the
25 state, or any court, agency, or instrumentality of the foregoing.

26 (9) "Payment card" means credit card, charge card, debit card, or any
27 other card that is issued to an authorized card user and allows the user to
28 purchase goods or services from a merchant.

29 (10) "Payment card transaction" means any transaction in which a

1 payment card is accepted as payment.

2 §3302. Financial privacy

3 A. Except for those records kept during the regular course of a criminal
4 investigation and prosecution, or as otherwise required by law, no government
5 entity or official, and no agent or employee of a governmental entity shall
6 knowingly keep or cause to be kept any list, record, or registry of privately
7 owned firearms or the owners of those firearms.

8 B. No financial institution or agent of a financial institution shall do
9 either of the following:

10 (1) Require the assignment of a firearms code in a way that distinguishes
11 a firearms retailer from other retailers;

12 (2) Subject to Subsection C of this Section, decline a payment card
13 transaction involving a firearms retailer based solely on assignment of a firearm
14 code.

15 C. Nothing in this Section prohibits a financial institution from declining
16 or otherwise refusing to process a payment card transaction for any of the
17 following reasons:

18 (1) Necessary to comply with applicable state or federal law.

19 (2) Requested by the customer.

20 (3) Necessary due to fraud controls.

21 (4) For the purpose of merchant category exclusions offered by a
22 financial institution for the purpose of expenditure control or corporate card
23 control.

24 D. Nothing in this Section limits the authority of a financial institution
25 to negotiate with responsible parties or otherwise impairs a financial
26 institution's actions related to any of the following:

27 (1) Dispute processing.

28 (2) Fraud risk or credit management or other controls in the ordinary
29 course of business operations.

1 (3) Protecting against illegal activities, breach, or cyber risks.

2 (4) Restricting the use or availability of a firearms code in this state.

3 §3303. Violations

4 A. The attorney general shall investigate reasonable allegations that a
5 person or entity, including a government entity, has violated the provisions of
6 this Chapter and, upon finding violation, provide written notice to the person
7 or entity believed to have committed the violation. The person or entity shall
8 cease the violation within thirty days after receiving notice from the attorney
9 general pursuant to this Section.

10 B.(1) If a person or entity does not cease the violation within thirty days
11 after receiving notice from the attorney general under this Section, the attorney
12 general shall file an action against that person or entity to seek an injunction.

13 (2) If the court finds that the person or entity violated the provisions of
14 this Chapter and has not ceased the activity constituting the violation, the court
15 shall enjoin the person or entity from continuing such activity and may award
16 any other relief as the court considers appropriate.

17 (3) If a person or entity purposely fails to comply with an injunction
18 issued pursuant to Paragraph (2) of this Subsection after thirty days of being
19 served with the injunction, the attorney general, upon petition to the court, shall
20 seek to impose on that person or entity a civil fine in an amount not to exceed
21 one thousand dollars per violation. In assessing such a civil fine, the court shall
22 consider factors, including the financial resources of the violator and the harm
23 or risk of harm to the rights under the Second Amendment to the United States
24 Constitution and Article I, Section 11 of the Constitution of Louisiana, resulting
25 from the violation.

26 (4) Any order assessing a civil fine pursuant to Paragraph (3) of this
27 Subsection shall be stayed pending appeal of the order.

28 C. The attorney general has exclusive authority to enforce the provisions
29 of this Chapter. The remedies set forth in this Section are the exclusive remedies

- 1 **for any violation of this Chapter.**
- 2 **D. It shall be a defense to a proceeding initiated pursuant to this Section**
- 3 **that a firearms code was required to be disclosed or assigned by law.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by James Benton.

DIGEST

SB 301 Original 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 no financial institution or agent of a financial institution shall do either of the following:

- (1) Require the assignment of a firearms code in a way that distinguishes a firearms retailer from other retailers.
- (2) Subject to proposed law, decline a payment card transaction involving a firearms retailer based solely on assignment of a firearms code.

Proposed law provides that nothing in proposed law prohibits a financial institution from declining or otherwise refusing to process a payment card transaction for any of the following reasons:

- (1) Necessary to comply with applicable state or federal law.
- (2) Requested by the customer.
- (3) Necessary due to fraud controls.
- (4) For the purpose of merchant category exclusions offered by a financial institution for the purpose of expenditure control or corporate card control.

Proposed law provides that nothing in proposed law limits the authority of a financial institution to negotiate with responsible parties or otherwise impairs a financial institution's actions related to any of the following:

- (1) Dispute processing.
- (2) Fraud risk or credit management or other controls in the ordinary course of business operations.
- (3) Protecting against illegal activities, breach, or cyber risks.
- (4) Restricting the use or availability of a firearms code in this state.

Proposed law provides that the attorney general shall investigate reasonable allegations that a person or entity, including a government entity, has violated present 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 days after receiving 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 present law and has not ceased the activity constituting the violation, the court shall enjoin the person or entity from continuing such activity and may award 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 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 such a civil 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 if 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)