

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 whether 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 or credit union, as defined in R.S. 6:2, acquirer, or payment
14 card issuer.

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 physically
18 located in this state, and is engaged in the lawful selling or trading of firearms,
19 antique firearms, or ammunition to be used in firearms or antique firearms.

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

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

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

28 (10) "Payment card network" means an entity that provides the
29 proprietary services, infrastructure, and software to conduct debit card or

1 credit card transaction authorizations, clearances, and settlements, and that an
2 entity uses in order to accept as a form of payment a brand of debit card, credit
3 card, or other device that may be used to carry out debit or credit transactions.

4 (11) "Payment card transaction" means any transaction in which a
5 payment card is accepted as payment.

6 §3302. Financial privacy

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

12 B. Except as provided in Subsections D and E of this Section, no payment
13 card network or agent shall require the assignment of a firearms code in a way
14 that distinguishes a firearms retailer from other retailers.

15 C. Except as provided in Subsections D and E of this Section, no financial
16 institution or agent of a financial institution shall decline a payment card
17 transaction involving a firearms retailer based solely on assignment of a
18 firearms code.

19 D. Nothing in this Section prohibits a financial institution or payment
20 card network from declining or otherwise refusing to process a payment card
21 transaction for any of the following reasons:

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

23 (2) Requested by the customer.

24 (3) Necessary due to fraud, credit, or compliance controls.

25 (4) For the purpose of merchant category exclusions offered by a
26 financial institution for the purpose of expenditure control or corporate card
27 control.

28 (5) Restricting the use or availability of a firearms code in this state.

29 E. Nothing in this Section limits the authority of a financial institution

1 or payment card network from negotiating with responsible parties or
2 otherwise impairs a financial institution's actions related to any of the
3 following:

4 (1) Dispute processing.

5 (2) Fraud risk, compliance, or credit management or other controls in
6 the ordinary course of business operations.

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

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

9 §3303. Violations

10 A. The attorney general shall investigate reasonable allegations that a
11 person or entity, including a government entity, has violated the provisions of
12 this Chapter and, upon finding violation, provide written notice to the person
13 or entity believed to have committed the violation. The person or entity shall
14 cease the violation within thirty days after receiving notice from the attorney
15 general pursuant to this Section.

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

19 (2) If the court finds that the person or entity violated the provisions of
20 this Chapter and has not ceased the activity constituting the violation, the court
21 shall enjoin the person or entity from continuing such activity and shall award
22 attorney fees, costs, and any other relief as the court considers appropriate.

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

1 **Constitution and Article I, Section 11 of the Constitution of Louisiana, resulting**
 2 **from the violation.**

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

5 **C. The attorney general has exclusive authority to enforce the provisions**
 6 **of this Chapter. The remedies set forth in this Section are the exclusive remedies**
 7 **for any violation of this Chapter.**

8 **D. It shall be a defense to a proceeding initiated pursuant to this Section**
 9 **that a firearms code was required to be disclosed or assigned by law.**

The original instrument was prepared by James Benton. The following digest, which does not constitute a part of the legislative instrument, was prepared by Xavier Alexander.

DIGEST

SB 301 Engrossed

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 payment card network or agent shall require the assignment of a firearms code in a way that distinguishes a firearms retailer from other retailers, except as provided in proposed law.

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 nothing in proposed law prohibits a financial institution or payment card network 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, credit, or compliance controls.
- (4) For the purpose of merchant category exclusions offered by a financial institution for the purpose of expenditure control or corporate card control.
- (5) Restricting the use or availability of a firearms code in this state.

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

- (1) Dispute processing.
- (2) Fraud risk, compliance, 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 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 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 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 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.