

Hall of the House of Representatives
95th General Assembly - Regular Session, 2025
Amendment Form

Subtitle of House Bill 1443

TO CREATE THE SECOND AMENDMENT FINANCIAL PRIVACY ACT; TO PROHIBIT
FINANCIAL INSTITUTIONS AND PAYMENT NETWORKS FROM USING CERTAIN
DISCRIMINATORY PRACTICES; AND TO PROVIDE FOR ENFORCEMENT OF
VIOLATIONS.

Amendment No. 1 to House Bill 1443

Amend House Bill 1443 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 23, Chapter 32, is amended to add an additional subchapter to read as follows:

Subchapter 6 – Second Amendment Financial Privacy Act

23-32-601. Title.

This subchapter shall be known and may be cited as the "Second Amendment Financial Privacy Act".

23-32-602. Definitions.

As used in this subchapter:

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm;

(2) "Antique firearm" means the same as defined in 18 U.S.C. 921, as it existed on January 1, 2025;

(3) "Assign" or "assignment" means a financial institution's policy, process, or practice that labels, links, or otherwise associates a firearms code with a merchant or payment card transaction in a manner that allows the financial institution, payment network, or any other entity



facilitating or processing the payment card transaction to identify whether a merchant is a firearms retailer or whether a transaction involves the sale of firearms, firearm accessories or components, or ammunition;

(4)(A) "Customer" means a person physically located in this state who is engaged in a payment card transaction that a financial institution facilitates or processes.

(B) "Customer" includes a person or the person's authorized representative who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary in relation to an account maintained in the person's name;

(5) "Depository institution" means:

(A) A depository institution as defined in 12 U.S.C. § 1813(c)(1), as it existed on January 1, 2025; or

(B) An insured credit union as defined in 12 U.S.C. § 1752(7), as it existed on January 1, 2025;

(6) "Disclosure" means the transfer, publication, or distribution of protected financial information to another person or entity for any purpose other than to process or facilitate a payment card transaction;

(7)(A) "Financial institution" means an entity involved in facilitating or processing a payment card transaction.

(B) "Financial institution" includes:

(i) An acquirer;

(ii) A payment card issuer;

(iii) A depository institution;

(iv) A trust company;

(v) A savings bank;

(vi) A person subject to the jurisdiction of the:

(a) United States Securities and Exchange Commission;

(b) Bank Commissioner under the Arkansas Banking Code of 1997, chapters 45-50 of this title;

(c) Securities Commissioner under the Arkansas Securities Act, § 23-42-101 et seq.;

(d) Insurance Commissioner under the Arkansas

Insurance Code; or

(e) Federal Deposit Insurance Corporation; and

(vii) Any other institution that:

(a) Holds and receives deposits, savings, or share accounts;

(b) Issues certificates of deposit;

(c) Provides to its customers any deposit accounts subject to withdrawal by check, instrument, order, or electronic means to effect third-party payments;

(d) Provides insurance services; or

(e) Provides investment services;

(8) "Financial record" means:

(A) The original or a copy of a record or document held by a payment network pertaining to a customer of a financial institution utilizing a payment network, including a record of a transaction conducted by means of a customer bank communication terminal or other electronic device;

(B) A financial record held by a payment network related to a payment card transaction that the financial institution has processed or facilitated; and

(C) Any information derived from the records or documents described in subdivisions (8)(A) and (B) of this section;

(9) "Firearm" means a weapon that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive;

(10) "Firearm accessory or component" means:

(A) An attachment or device specifically adapted to:

(i) Enable the:

(a) Wearing or carrying of a firearm about one's person; or

(b) Storage of a firearm in, or the mounting of a firearm in or upon, a conveyance; or

(ii) Be inserted into or affixed onto a firearm to enable, alter, or improve the functioning or capabilities of a firearm;

(B) An item that is used in conjunction with or mounted upon a firearm, including without limitation:

(i) A telescopic or laser sight;

(ii) A magazine;

- (iii) A flash or sound suppressor;
- (iv) A folding or aftermarket stock and grip;
- (v) A speedloader;
- (vi) A brace;
- (vii) An ammunition carrier; and
- (viii) A light for target illumination; and

(C) A component for making ammunition, reloading materials and equipment, machinery, and tools for manufacturing ammunition;

(11)(A) "Firearms code" means a code or other indicator that a payment network or financial institution assigns to a merchant or to a payment card transaction that identifies whether or not:

- (i) A merchant is a firearms retailer; or
- (ii) The payment card transaction involves the purchase of a firearm, a firearm accessory or component, or ammunition.

(B) "Firearms code" includes without limitation a merchant category code assigned to a firearms retailer by a payment network or other financial institution;

(12) "Firearms retailer" means a person or entity physically located in this state and engaged in the lawful business of selling or trading firearms, antique firearms, firearm accessories or components, or ammunition;

(13)(A) "Government entity" means a state, local government, or instrumentality of a state or local government.

(B) "Government entity" includes an official, agent, or employee of a state or local government;

(14)(A) "Merchant" means a person or entity physically located in this state that accepts payment cards from customers for the purchase of goods or services.

(B) "Merchant" includes a firearms retailer that accepts payment cards for the lawful purchase of firearms, firearm accessories or components, or ammunition;

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

(16) "Payment network" means a debit or credit network through which funds may be transferred, including credit card associations,

electronic funds transfer networks, or other organizations or associations, that issue or sponsor a financial transaction device;

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

(B) "Protected financial information" includes the financial records of a customer;

(18) "Savings bank" means a savings association or federal savings association as defined in 12 U.S.C. § 1462, as it existed on January 1, 2025; and

(19) "Trust company" means:

(A) A national bank engaged in activities in a fiduciary capacity under 12 U.S.C. § 92a and 12 C.F.R. Part 9;

(B) A trust company as defined in § 23-51-102; or

(C) An interstate bank that is authorized under the Arkansas Banking Code of 1997, chapters 45-50 of this title, to exercise the powers of a trust company in this state.

23-32-603. Financial privacy – Firearm-owner rights.

(a)(1) A government entity, a payment network or an entity or agent acting on behalf of a payment network, or a financial institution or an entity or agent acting on behalf of a financial institution shall not knowingly keep or cause to be kept a list, record, or registry of:

(A) Privately owned firearms; or

(B) Owners of privately owned firearms.

(2) Subdivision (a)(1) of this section does not apply to:

(A) Records kept during the regular course of a criminal investigation or prosecution;

(B) Records kept in the regular course of business by a firearms retailer;

(C) Information submitted to a law enforcement agency in connection with an application for a license to carry a concealed handgun and maintained under § 5-73-307 subject to the restrictions under § 5-73-307 and under § 25-19-105(b); or

(D) Records kept as otherwise required by law.

(b) A financial institution, a payment network, or agents of a payment network shall not require or incentivize the usage of a firearms code in a way that distinguishes a firearms retailer from general merchandise retailers or sporting goods retailers located in this state.

(c) Except as provided in subsections (e) and (f) of this section, a A financial institution or payment network shall not discriminate against a firearms retailer by:

(1) Declining a lawful payment card transaction based solely on the assignment or nonassignment of a firearms code to the firearms retailer or transaction;

(2) Limiting or declining to do business with a customer, potential customer, or merchant based on the assignment or nonassignment of a firearms code to any previous lawful transaction involving the customer, potential customer, or merchant;

(3) Charging a higher transaction or interchange fee to a merchant or for a lawful transaction based on the assignment or nonassignment of a firearms code; or

(4) Otherwise taking any action against a customer or merchant that is intended to suppress lawful commerce involving firearms, firearm accessories or components, or ammunition when that action is based solely or in part on the customer's or merchant's business involving firearms, firearm accessories or components, or ammunition.

(d) A financial institution or payment network shall not disclose a financial record or protected financial information, including a firearms code, that was collected in violation of this subchapter unless the disclosure of the financial record or protected financial information is based on a good faith conclusion that the financial institution's action was required by applicable law.

(e) A payment network or financial institution may decline or otherwise refuse to process a lawful payment card transaction involving a firearms retailer on the basis of the assignment or nonassignment of a firearms code:

(1) If necessary to comply with applicable state or federal law;

(2) At the request of the customer;

(3) According to fraud controls or merchant category exclusions offered by a financial institution for the purpose of expenditure control or

corporate card control applicable to the payment card involved in the payment card transaction; or

(4) For purposes of restricting the use or availability of a firearms code in Arkansas.

(f) With respect to a payment card transaction, this subchapter does not limit the ability of a payment network to negotiate with a responsible party or otherwise impair the payment network's actions related to:

(1) Dispute processing;

(2) Fraud risk or credit management in the ordinary course of business operations; or

(3) Protecting the integrity of the payment card transaction with respect to illegal activity, security breaches, or risk of cyberattacks.

23-32-604. Enforcement.

(a)(1)(A) The Attorney General may investigate alleged violations of this subchapter and, upon finding a violation, shall provide written notice to an individual or entity that is violating this subchapter.

(B) The written notice required under subdivision (a)(1)(A) of this section shall be made to the entity's registered agent or the individual.

(2) Upon receipt of the written notice under subdivision (a)(1) of this section, the individual or entity shall cease the violation of this subchapter within thirty (30) days after receiving notice from the Attorney General under this section.

(3) The Attorney General may grant an entity up to an additional thirty (30) days to cease the violation of this subchapter.

(b)(1) A firearms retailer whose business was the subject of an alleged violation of this subchapter or a customer who completed a transaction with a firearms retailer whose business was the subject of an alleged violation of this subchapter may petition the Attorney General to investigate an alleged violation of this subchapter.

(2) If the Attorney General does not commence an action within ninety (90) days of receiving the petition under subdivision (b)(1) of this section, the firearms retailer or customer may file an action in a court of competent jurisdiction to enjoin the individual or entity from violations of this subchapter.

(c)(1) If an individual or entity fails to cease the violation under subdivision (a)(2) of this section, the Attorney General shall request an injunction against the individual or entity alleged to be in violation of this subchapter, which a court may order, in addition to any other available relief, as the court may consider appropriate.

(2) If a court finds that the individual or entity continues to be in violation of this subchapter after thirty (30) calendar days from receiving written notice under subdivision (a)(1)(A) or subdivision (a)(3) of this section, then the court shall enjoin the individual or entity from continuing the activity found to be in violation of this subchapter.

(3)(A)(i) If the individual or entity knowingly fails to comply with an injunction under subdivision (c)(2) of this section within thirty (30) calendar days after being served with an injunction, then the Attorney General shall petition the court to recover a civil penalty in a sum not to exceed fifteen thousand dollars (\$15,000) for each violation committed after the expiration of the thirty-day period under this subdivision (c)(3)(A).

(ii) Each transaction in violation of this subchapter constitutes a separate violation.

(B) In assessing a penalty, the court may consider the financial resources of the individual or entity that violated this subchapter and the harm or risk of harm to the rights afforded to the firearms retailer or customer under Arkansas Constitution, Article 2, § 5 and the Second Amendment to the United States Constitution resulting from the violation.

(C) In addition to the remedies provided under this section, the Attorney General or a petitioner who prevails in an action under this section shall recover costs, including investiative costs and expert fees, reasonable attorney's fees, and any other remedy the court deems appropriate.

(D) An order assessing a penalty for a violation of this subchapter shall be stayed pending appeal of the order and upon filing a supersedeas bond with the court.

(d) It is not a defense to an action filed under this section that the information was disclosed to a United States Government entity unless the disclosure or action was made based on a good faith conclusion that the disclosure or action was required by federal law or regulation.

23-32-605. Applicability.

This subchapter does not apply to a payment card transaction that is initiated at a firearms retailer's physical location outside of Arkansas, whether or not:

(1) The purchaser in the payment card transaction is a consumer who resides in Arkansas; or

(2) The firearms retailer has at least one (1) physical location in Arkansas.

SECTION 2. DO NOT CODIFY. Effective date.

This act is effective on and after September 1, 2025."

The Amendment was read _____
By: Representative Pilkington
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Chief Clerk