

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1443

5 By: Representative Pilkington
6 By: Senator C. Penzo
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE SECOND AMENDMENT FINANCIAL
10 PRIVACY ACT; TO PROHIBIT FINANCIAL INSTITUTIONS AND
11 PAYMENT NETWORKS FROM USING CERTAIN DISCRIMINATORY
12 PRACTICES; TO PROVIDE FOR ENFORCEMENT OF VIOLATIONS;
13 AND FOR OTHER PURPOSES.
14

Subtitle

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16
17 TO CREATE THE SECOND AMENDMENT FINANCIAL
18 PRIVACY ACT; TO PROHIBIT FINANCIAL
19 INSTITUTIONS AND PAYMENT NETWORKS FROM
20 USING CERTAIN DISCRIMINATORY PRACTICES;
21 AND TO PROVIDE FOR ENFORCEMENT OF
22 VIOLATIONS.
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code Title 23, Chapter 32, is amended to add an
27 additional subchapter to read as follows:
28

29 Subchapter 6 – Second Amendment Financial Privacy Act
30

31 23-32-601. Title.

32 This subchapter shall be known and may be cited as the "Second
33 Amendment Financial Privacy Act".
34

35 23-32-602. Definitions.

36 As used in this subchapter:



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

3 (2) "Antique firearm" means the same as defined in 18 U.S.C.
4 921, as it existed on January 1, 2025;

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

12 (4)(A) "Customer" means a person engaged in a payment card
13 transaction that a financial institution facilitates or processes.

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

19 (5) "Depository institution" means:

20 (A) A depository institution as defined in 12 U.S.C. §
21 1813(c)(1), as it existed on January 1, 2025; or

22 (B) An insured credit union as defined in 12 U.S.C. §
23 1752(7), as it existed on January 1, 2025;

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

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

30 (B) "Financial institution" includes:

31 (i) An acquirer;

32 (ii) A payment network;

33 (iii) A payment card issuer;

34 (iv) A depository institution;

35 (v) A trust company;

36 (vi) A savings bank;

1 (vii) A person subject to the jurisdiction of the:
 2 (a) United States Securities and Exchange
 3 Commission;
 4 (b) Bank Commissioner under the Arkansas
 5 Banking Code of 1997, chapters 45-50 of this title;
 6 (c) Securities Commissioner under the Arkansas
 7 Securities Act, § 23-42-101 et seq.;
 8 (d) Insurance Commissioner under the Arkansas
 9 Insurance Code; or
 10 (e) Federal Deposit Insurance Corporation; and
 11 (viii) Any other institution that:
 12 (a) Holds and receives deposits, savings, or
 13 share accounts;
 14 (b) Issues certificates of deposit;
 15 (c) Provides to its customers any deposit
 16 accounts subject to withdrawal by check, instrument, order, or electronic
 17 means to effect third-party payments;
 18 (d) Provides insurance services; or
 19 (e) Provides investment services;
 20 (8) "Financial record" means:
 21 (A) The original or a copy of a record or document held by
 22 a payment network pertaining to a customer of a financial institution
 23 utilizing a payment network, including a record of a transaction conducted by
 24 means of a customer bank communication terminal or other electronic device;
 25 (B) A financial record held by a payment network related
 26 to a payment card transaction that the financial institution has processed or
 27 facilitated; and
 28 (C) Any information derived from the records or documents
 29 described in subdivision (8)(A) and subdivision (8)(B) of this section;
 30 (9) "Firearm" means a weapon that will, is designed to, or may
 31 readily be converted to expel a projectile by the action of an explosive;
 32 (10) "Firearm accessory or component" means:
 33 (A) An attachment or device specifically adapted to:
 34 (i) Enable the:
 35 (a) Wearing or carrying of a firearm about
 36 one's person; or

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

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

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

7 (i) Telescopic or laser sight;

8 (ii) Magazine;

9 (iii) Flash or sound suppressor;

10 (iv) Folding or aftermarket stock and grip;

11 (v) Speedloader;

12 (vi) Brace;

13 (vii) Ammunition carrier; and

14 (viii) Light for target illumination; and

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

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

20 (i) A merchant is a firearms retailer; or

21 (ii) The payment card transaction involves the
22 purchase of a firearm, a firearm accessory or component, or ammunition.

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

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

30 (13)(A) "Government entity" means a state or local government.

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

33 (14)(A) "Merchant" means a person or entity that accepts payment
34 cards from customers for the purchase of goods or services.

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

1 components, or ammunition;

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

5 (16) "Payment network" means a debit or credit network through
6 which funds may be transferred, including credit card associations,
7 electronic funds transfer networks, or other organizations or associations,
8 that issue or sponsor a financial transaction device;

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

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

15 (18) "Savings bank" means a savings association or federal
16 savings association as defined in 12 U.S.C. § 1462, as it existed on January
17 1, 2025; and

18 (19) "Trust company" means:

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

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

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

25
26 23-32-603. Financial privacy – Firearm owner rights.

27 (a) Except for records kept during the regular course of a criminal
28 investigation and prosecution, a government entity or any other person, other
29 than an owner of a firearm or his or her representative, shall not knowingly
30 keep or cause to be kept a list, record, or registry of:

31 (1) Privately owned firearms; or

32 (2) Owners of privately owned firearms.

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

1 (c) A financial institution or payment network shall not discriminate
2 against a firearms retailer by:

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

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

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

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

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

24
25 23-32-604. Enforcement.

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

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

32 (2) Upon receipt of the written notice under subdivision (a)(1)
33 of this section, the individual or entity shall have thirty (30) calendar
34 days to cease the usage of a firearms code for a merchant located in
35 Arkansas.

36 (3) The Attorney General may grant an entity up to an additional

1 one hundred twenty (120) days to cease the requirement for usage of the
2 firearms code.

3 (b)(1) A firearms retailer whose business was the subject of an
4 alleged violation of this subchapter or a customer who transacted at a
5 firearms retailer whose business was the subject of an alleged violation of
6 this subchapter may petition the Attorney General to investigate an alleged
7 violation of this subchapter.

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

13 (c)(1) If an individual or entity fails to cease the usage of a
14 firearms code for a merchant located in Arkansas under subdivision (a)(2) of
15 this section, the Attorney General may request an injunction against the
16 individual or entity alleged to be in violation of this subchapter, which a
17 court may order, in addition to any other available relief, as the court may
18 consider appropriate.

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

24 (3)(A) If the individual or entity knowingly fails to comply
25 with an injunction under subdivision (c)(2) of this section within thirty
26 (30) calendar days after being served with an injunction, then the Attorney
27 General, upon petition to the court, may recover a civil penalty in a sum not
28 to exceed ten thousand dollars (\$10,000) for each violation committed after
29 the expiration of the thirty-day period under this subdivision (c)(3)(A).

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

35 (C) In addition to the civil penalty under subdivision
36 (c)(3)(A) of this section, the Attorney General may recover investigative

1 costs and reasonable attorney's fees.

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

5 (d) It is a defense to a civil proceeding initiated under this section
6 that a firearms code was required to be used based on a good faith conclusion
7 that the entity's action was required by applicable law.

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