

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

This Version Includes All Amendments
Adopted in the Second House

LLS NO. 24-0076.01 Jery Payne x2157

SENATE BILL 24-066

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Senate Committees
Business, Labor, & Technology

House Committees
Business Affairs & Labor

HOUSE
3rd Reading Unamended
April 8, 2024

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT CERTAIN BUSINESSES WITH**
102 **RELATIONSHIPS WITH FIREARMS MERCHANTS USE THE**
103 **APPROPRIATE MERCHANT CATEGORY CODE.**

HOUSE
2nd Reading Unamended
April 3, 2024

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

SENATE
3rd Reading Unamended
February 21, 2024

The bill requires certain networks that facilitate payment transactions to make the merchant category code for firearms and ammunition (code) available to merchant acquirers (processor) who process transactions for firearms merchants. A processor must assign the code to each firearms merchant to which the processor provides services.

SENATE
Amended 2nd Reading
February 20, 2024

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

The attorney general's office has exclusive authority to enforce the bill. Before bringing an enforcement action, the attorney general's office must notify in writing the person alleged to have violated the bill. Standards are set for the notice. A violator has 30 days to cure the violation in accordance with the standards in the bill.

If a person violates the bill and does not cure the violation, the attorney general's office may bring an action to seek:

- A civil penalty of up to \$10,000 for each violation; or
- An injunction or equitable relief that prevents a further violation.

If the attorney general's office prevails in the action, a court may issue an order requiring the violator to pay reasonable attorney fees and costs incurred in bringing the action.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article
3 27 of title 6 as follows:

4 **PART 2**

5 **PAYMENT PROCESSING FOR**
6 **RETAIL SALES OF FIREARMS**

7 **6-27-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "ATTORNEY GENERAL" INCLUDES AN ATTORNEY GENERAL'S
10 DESIGNEE ACTING WITHIN THE SCOPE OF THE DESIGNEE'S DUTIES AS AN
11 EMPLOYEE OF THE ATTORNEY GENERAL'S OFFICE.

12 (2) "FIREARM" HAS THE MEANING SET FORTH IN SECTION 18-1-901

13 (3)(h).

14 (3) "FIREARM ACCESSORY" MEANS A DEVICE DESIGNED OR
15 ADAPTED TO BE INSERTED INTO, ATTACHED TO, OR USED WITH A FIREARM
16 IF THE DEVICE ALTERS:

17 (a) THE FIRING CAPABILITIES OF THE FIREARM;

18 (b) THE LETHALITY OF THE FIREARM; OR

1 (c) THE SHOOTER'S ABILITY TO HOLD OR USE THE FIREARM.

2 (4) "FIREARMS MERCHANT" MEANS A BUSINESS THAT:

3 (a) IS PHYSICALLY LOCATED IN COLORADO;

4 (b) ACQUIRES AND SELLS FIREARMS, FIREARM ACCESSORIES, AND
5 FIREARM AMMUNITION WITH THE INTENTION OF MAKING A PROFIT; AND

6 (c) HAS ITS HIGHEST GROSS REVENUE OR EXPECTED GROSS
7 REVENUE FROM THE COMBINED SALE IN COLORADO OF FIREARMS, FIREARM
8 ACCESSORIES, OR FIREARM AMMUNITION, AS STATED BY THE BUSINESS TO
9 ITS MERCHANT ACQUIRER IN THE ORDINARY COURSE OF BUSINESS.

10 (5) "MERCHANT ACQUIRER" MEANS A PERSON WITH A
11 RELATIONSHIP WITH A MERCHANT FOR THE PURPOSES OF PROCESSING
12 CREDIT, DEBIT, OR PREPAID TRANSACTIONS.

13 (6) "MERCHANT CATEGORY CODE FOR FIREARMS" OR "CODE"
14 MEANS THE MERCHANT CATEGORY CODE FOR FIREARMS AND AMMUNITION
15 BUSINESSES ESTABLISHED BY THE INTERNATIONAL ORGANIZATION FOR
16 STANDARDIZATION ON SEPTEMBER 9, 2022.

17 (7) "PAYMENT CARD NETWORK" MEANS A PERSON THAT PROVIDES
18 SERVICES TO ROUTE TRANSACTIONS BETWEEN BANK PARTICIPANTS TO
19 CONDUCT DEBIT, CREDIT, OR PREPAID TRANSACTIONS FOR THE PURPOSES
20 OF AUTHORIZATION, CLEARANCE, OR SETTLEMENT.

21 **6-27-202. Payment card network - merchant category code.**
22 ON AND AFTER SEPTEMBER 1, 2024, A PAYMENT CARD NETWORK SHALL
23 MAKE THE MERCHANT CATEGORY CODE FOR FIREARMS AVAILABLE FOR
24 MERCHANT ACQUIRERS THAT PROVIDE PAYMENT SERVICES FOR FIREARMS
25 MERCHANTS.

26 **6-27-203. Merchant acquirer - merchant category.** EFFECTIVE
27 MAY 1, 2025, A MERCHANT ACQUIRER SHALL ASSIGN THE MERCHANT

1 CATEGORY CODE FOR FIREARMS TO EACH FIREARMS MERCHANT TO WHICH
2 THE MERCHANT ACQUIRER PROVIDES SERVICES.

3 **6-27-204. Waivers void.** A CONTRACTUAL WAIVER OF THIS PART
4 2 IS VOID BECAUSE THE WAIVER IS CONTRARY TO PUBLIC POLICY.

5 **6-27-205. Attorney general - exclusive enforcement authority.**
6 THE ATTORNEY GENERAL HAS EXCLUSIVE AUTHORITY TO ENFORCE THIS
7 PART 2, WHICH DOES NOT GRANT ANY OTHER PERSON AUTHORITY TO
8 BRING A CIVIL ACTION TO ENFORCE THIS PART 2 OR SEEK DAMAGES AS A
9 RESULT OF A VIOLATION OF THIS PART 2.

10 **6-27-206. Enforcement.** (1) NOT FEWER THAN FORTY-FIVE DAYS
11 BEFORE BRINGING AN ACTION UNDER SUBSECTION (3) OF THIS SECTION,
12 THE ATTORNEY GENERAL MUST NOTIFY IN WRITING THE PERSON ALLEGED
13 TO BE IN VIOLATION OF THIS PART 2. A COURT SHALL DISMISS, WITHOUT
14 PREJUDICE, AN ACTION UNTIL THE ATTORNEY GENERAL HAS COMPLIED
15 WITH THIS SUBSECTION (1). THE NOTICE MUST CONTAIN:

16 (a) EACH SPECIFIC PROVISION OF THIS PART 2 THAT IS ALLEGED TO
17 HAVE BEEN VIOLATED; AND

18 (b) THE ACTS OR OMISSIONS THAT ARE ALLEGED TO HAVE
19 VIOLATED EACH PROVISION DESCRIBED IN SUBSECTION (1)(a) OF THIS
20 SECTION.

21 (2) THE ATTORNEY GENERAL SHALL NOT BRING AN ACTION UNDER
22 THIS SECTION IF THE PERSON THAT RECEIVES THE NOTICE DESCRIBED IN
23 SUBSECTION (1) OF THIS SECTION:

24 (a) CURES THE DESCRIBED VIOLATION WITHIN THIRTY DAYS AFTER
25 RECEIVING THE NOTICE;

26 (b) PROVIDES THE ATTORNEY GENERAL A WRITTEN STATEMENT,
27 MADE UNDER PENALTY OF PERJURY, THAT THE PERSON HAS:

1 (I) CURED THE VIOLATION; AND

2 (II) MADE ANY NECESSARY CHANGES TO THE PERSON'S INTERNAL
3 POLICIES TO PREVENT FUTURE VIOLATIONS OF THIS SECTION; AND

4 (c) PROVIDES ANY NECESSARY SUPPORTING DOCUMENTATION
5 THAT SHOWS HOW THE VIOLATION WAS CURED.

6 (3) A PERSON THAT VIOLATES THIS PART 2 AND DOES NOT CURE
7 THE VIOLATION IN ACCORDANCE WITH SUBSECTIONS (2)(a) TO (2)(c) OF
8 THIS SECTION IS SUBJECT TO THE FOLLOWING AND THE ATTORNEY
9 GENERAL MAY FILE AN ACTION SEEKING:

10 (a) A CIVIL PENALTY OF UP TO TEN THOUSAND DOLLARS FOR EACH
11 VIOLATION; OR

12 (b) AN INJUNCTION OR EQUITABLE RELIEF THAT PREVENTS A
13 FURTHER VIOLATION OF THIS PART 2.

14 (4) IF THE ATTORNEY GENERAL PREVAILS IN AN ACTION BROUGHT
15 PURSUANT TO THIS PART 2, A COURT MAY ISSUE AN ORDER REQUIRING THE
16 VIOLATOR TO PAY REASONABLE ATTORNEY FEES AND COSTS INCURRED IN
17 BRINGING THE ACTION.

18 **SECTION 2.** In Colorado Revised Statutes, **add 11-30-127 as**
19 **follows:**

20 **11-30-127. Merchant code for firearms.** A PAYMENT CARD
21 **NETWORK, AS DEFINED IN SECTION 6-27-201 (7), OR A MERCHANT**
22 **ACQUIRER, AS DEFINED IN SECTION 6-27-201 (5), SHALL COMPLY WITH**
23 **PART 2 OF ARTICLE 27 OF TITLE 6.**

24 **SECTION 3.** In Colorado Revised Statutes, **add 11-105-211 as**
25 **follows:**

26 **11-105-211. Merchant code for firearms.** A PAYMENT CARD
27 NETWORK, AS DEFINED IN SECTION 6-27-201 (7), OR A MERCHANT

1 ACQUIRER, AS DEFINED IN SECTION 6-27-201 (5), SHALL COMPLY WITH
2 PART 2 OF ARTICLE 27 OF TITLE 6.

3 **SECTION 4.** In Colorado Revised Statutes, **amend** 6-27-101 as
4 follows:

5 **6-27-101. Short title.** The short title of this ~~article 27~~ PART 1 is
6 the "Jessi Redfield Ghawi's Act For Gun Violence Victims' Access to
7 Justice and Firearms Industry Accountability".

8 **SECTION 5.** In Colorado Revised Statutes, 6-27-103, **amend** the
9 introductory portion as follows:

10 **6-27-103. Definitions.** As used in this ~~article 27~~ PART 1, unless
11 the context otherwise requires:

12 **SECTION 6.** In Colorado Revised Statutes, 6-27-105, **amend** (1),
13 (2), (3)(a), (3)(d), and (4) as follows:

14 **6-27-105. Cause of action for violations of standards of**
15 **responsible conduct.** (1) A person or entity that has suffered harm as a
16 result of a firearm industry member's acts or omissions in knowing
17 violation of section 6-27-104 may bring a civil action pursuant to this
18 ~~article 27~~ PART 1 in a court of competent jurisdiction.

19 (2) The attorney general, or the attorney general's designee, may
20 bring a civil action in a court of competent jurisdiction to enforce this
21 ~~article 27~~ PART 1 and remedy harms caused by any acts or omissions in
22 knowing violation of section 6-27-104.

23 (3) In an action brought pursuant to this section, if the court
24 determines that a firearm industry member engaged in conduct in
25 violation of section 6-27-104, the court shall award just and appropriate
26 relief, which may include but is not limited to:

27 (a) Injunctive relief sufficient to prevent the firearm industry

1 member and any other defendant from further violating this ~~article 27~~
2 PART 1;

3 (d) Any other just and appropriate relief necessary to enforce this
4 ~~article 27~~ PART 1 and remedy the harm caused by the violation.

5 (4) In an action brought pursuant to this ~~article 27~~ PART 1, and
6 notwithstanding any intervening act by a third party, if a firearm industry
7 member's knowing violation of this ~~article 27~~ PART 1 creates a reasonably
8 foreseeable risk that harm would occur, the firearm industry member's
9 violation is presumed to be the proximate cause of the harm suffered by
10 the plaintiff.

11 **SECTION 7.** In Colorado Revised Statutes, **amend** 6-27-106 as
12 follows:

13 **6-27-106. Limitations.** (1) Nothing in this ~~article 27~~ PART 1
14 limits or impairs in any way the right of the attorney general, or any
15 person or entity, to pursue a legal action pursuant to any other law, cause
16 of action, tort theory, or other authority.

17 (2) Nothing in this ~~article 27~~ PART 1 limits or impairs in any way
18 an obligation or requirement placed on a firearm industry member by any
19 other authority.

20 (3) This ~~article 27~~ PART 1 must be construed and applied in a
21 manner that is consistent with the requirements of the constitutions of
22 Colorado and the United States.

23 **SECTION 8. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2024 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.