

HOUSE BILL 2856

By Hill

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8; Title 39; Title 45 and Title 47, relative to firearm, ammunition, and firearm accessories merchants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1305, is amended by deleting the section and substituting:

(a) As used in this section:

(1) "Financial institution" means an institution regulated by the department of financial institutions pursuant to title 45;

(2) "Merchant acquiring entity" has the same meaning as defined in 26 U.S.C. § 6050W of the Internal Revenue Code;

(3) "Payment acquirer" has the same meaning as defined in § 47-22-401;

(4) "Payment card issuer" means "card issuer" as that term is defined in § 47-22-401;

(5) "Payment card network" has the same meaning as defined in § 47-22-401;

(6) "Payment card transaction" has the same meaning as defined in 26 U.S.C. § 6050W of the Internal Revenue Code;

(7) "Payment settlement entity" has the same meaning as defined in 26 U.S.C. § 6050W of the Internal Revenue Code;

(8) "Registry" means a record of the possession or ownership by individuals or non-governmental entities of a firearm, ammunition, or firearm accessory, which includes, but is not limited to, the serial number, make, model,

or purchase date, the purchase location of the firearm, ammunition, or firearm accessory, or the names, social security numbers, or personal addresses of the individuals or non-governmental entities; and

(8) "Third-party settlement organization" has the same meaning as defined in 26 U.S.C. § 6050W of the Internal Revenue Code.

(b)

(1) A state or local government entity, official, employee, or agent shall not knowingly create or maintain a registry with the intent to record the possession or ownership of a firearm, ammunition, or firearm accessory by individuals or non-governmental entities.

(2) A payment settlement entity, merchant acquiring entity, or third-party settlement organization shall not assign a merchant category code to, or a separate classification for, a merchant that is a seller of firearms, ammunition, or firearm accessories separately from general merchandise retailers or sporting goods retailers.

(3) An entity involved in facilitating or processing a payment card transaction, including, but not limited to, a financial institution, a payment acquirer, a payment card network, or a payment card issuer, shall not assign to or require a merchant to use a merchant category code that classifies the merchant as a firearms, ammunition, or firearm accessories retailer or places the merchant in a similar classification. A merchant of firearms, ammunition, or firearm accessories may only be assigned or may use a merchant category code for general merchandise retailers or sporting goods retailers. An agreement or contractual provision to the contrary is void in violation of the public policy of this state.

(c)

(1) A violation of subsection (b) is a Class C felony.

(2) A violation of subdivision (b)(1) by a state or local governmental entity shall result in loss of funding from this state for the following fiscal year and each subsequent fiscal year during which the violation occurs.

(3) The district attorney general in the appropriate jurisdiction shall investigate complaints of criminal violations of subsection (b), and may initiate an investigation into a violation of subsection (b), and shall prosecute violators where the evidence indicates a reasonable likelihood that a violation has occurred.

(4) The attorney general and reporter or a district attorney general may investigate alleged violations of subsection (b) and, upon finding a violation, bring a civil action seeking a civil penalty not to exceed one hundred thousand dollars (\$100,000) per violation. Each unlawful registration of an individual or non-governmental entity, and each unlawful categorization or classification of a merchant constitutes a separate violation.

(d)

(1) A firearm registry under this section does not include:

(A) A temporary log or record maintained by a state or private entity for the purpose of temporary storage of firearms;

(B) A receipt or record generated while the firearm is in possession of a state or private entity pursuant to the normal operations of that entity unless prohibited by state law;

(C) A record of persons assigned firearms that are purchased, owned, or authorized for carry in the course of employment by a state or local law enforcement agency;

(D) A record maintained in connection with a criminal, civil, or administrative court case;

(E) A record created or received by the department of correction for the following purposes:

(i) Incident reporting or disciplining inmates, relative to the possession or introduction of a contraband firearm into a penal institution; or

(ii) Incident reporting, issuing parole revocation warrants, or giving notice to the sentencing court relative to the unlawful possession of a weapon by a parolee or a felon probationer; or

(F) A record created, received, or maintained by the Tennessee peace officer standards and training commission, the Jerry F. Agee Tennessee law enforcement training academy, or a law enforcement agency pursuant to § 39-17-1309(e)(11)(B), § 39-17-1315, § 38-8-116, § 38-8-123, or § 49-6-816(f)(1) and (i).

(2) Firearm information contained in documents pursuant to subdivision (d)(1) must be redacted by the record holder prior to release under § 10-7-503.

(e) Except as required by the sixth amendment to the United States Constitution or the Tennessee Constitution, public funds must not be used to defend the unlawful conduct of a person or entity charged with a violation of this section. Notwithstanding this subsection (e), public funds may be expended to provide the services of a public defender or court-appointed mediator or attorney as required by law.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.