

SENATE FILE NO. SF0105

Wyoming Second Amendment Financial Privacy Act.

Sponsored by: Senator(s) Laursen, D, Biteman, Bouchard,
French, Ide, Salazar and Steinmetz and
Representative(s) Bear, Haroldson, Heiner,
Knapp, Locke, Rodriguez-Williams, Slagle and
Ward

A BILL

for

1 AN ACT relating to the administration of government;
2 providing legislative findings; prohibiting disclosure or
3 use of protected information relating to firearms and
4 ammunition sales as specified; providing exceptions;
5 providing requirements for disclosure; authorizing civil
6 actions; providing definitions; and providing for an
7 effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.**

12

13 (a) The legislature finds that:

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1 (i) The second amendment to the United States
2 constitution guarantees the people the right to keep and
3 bear arms;

4

5 (ii) In September 2022, the world's three (3)
6 largest payment card networks publicly announced they would
7 assign a unique merchant category code to firearms
8 retailers accepting payment cards for purchases, after
9 twenty-eight (28) members of Congress sent a public letter
10 to networks, pressuring them to adopt the new code;

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12 (iii) In the letter to payment card networks,
13 federal lawmakers stated that the new merchant category
14 code for firearms retailers would be "the first step
15 towards facilitating the collection of valuable financial
16 data that could help law enforcement in countering the
17 financing of terrorism efforts," expressing a clear
18 government expectation that networks will utilize the new
19 merchant category code to conduct mass surveillance of
20 constitutionally protected firearms and ammunition
21 purchases in cooperation with law enforcement;

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1 (iv) The new merchant category code will allow
2 banks, payment card networks, acquirers and other entities
3 involved in payment card processing to identify and
4 separately track lawful payment card purchases at firearms
5 retailers in this state, paving the way for unprecedented
6 surveillance of second amendment activity and information
7 sharing between financial institutions and the government;

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9 (v) This potential for cooperative surveillance
10 and tracking of lawful firearms and ammunition purchases
11 will have a significant chilling effect on citizens wishing
12 to exercise their federal and state constitutional rights
13 to keep and bear arms in this state;

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15 (vi) While federal law requires some financial
16 institutions to report transactions that are highly
17 indicative of money laundering or other unlawful
18 activities, there is no federal or state law authorizing
19 financial institutions to surveil and track lawful
20 activities by customers in cooperation with law
21 enforcement. The federal Right to Financial Privacy Act
22 prohibits financial institutions from disclosing a

1 customer's financial records except in limited
2 circumstances;

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4 (vii) The creation and maintenance of records of
5 purchases of firearms or ammunition or the tracking of
6 sales made by a retailer of firearms or ammunition by a
7 nongovernmental entity, including a credit card processor,
8 without a substantial and historical business need or a
9 requirement imposed by law, may frustrate the right to keep
10 and bear arms and violate the reasonable privacy rights of
11 lawful purchasers of firearms or ammunition;

12

13 (viii) Based on the above stated findings, it is
14 the intent of the legislature to prohibit the misuse of
15 payment card processing systems to surveil, report or
16 otherwise discourage constitutionally protected firearm and
17 ammunition purchases and sales within this state.

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19 **Section 2.** W.S. 1-39-122 and 9-14-301 through
20 9-14-304 are created to read:

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22 **1-39-122. Liability; financial privacy.**

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1 A governmental entity is liable for damages resulting from
2 a violation of W.S. 9-14-303 caused by the negligent,
3 reckless or intentional acts of public employees while
4 acting within the scope of their duties.

5

6

ARTICLE 3

7

SECOND AMENDMENT FINANCIAL PRIVACY ACT

8

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9-14-301. Short title.

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

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9-14-302. Definitions.

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(a) As used in this act:

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(i) "Assign" or "assignment" means a credit card processor 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 credit card processor or any other entity facilitating or processing the payment card transaction to identify whether

1 a merchant is a firearms retailer or whether a transaction
2 involves the sale or purchase of firearms or ammunition;

3

4 (ii) "Credit card processor" means an entity
5 involved in facilitating or processing a payment card
6 transaction;

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8 (iii) "Customer" means any person engaged in a
9 payment card transaction that a credit card processor
10 facilitates or processes;

11

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

17

18 (v) "Financial record" means a financial record
19 held by a credit card processor related to a payment card
20 transaction that the credit card processor has processed or
21 facilitated;

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1 (vi) "Firearms code" means any code or other
2 indicator that a credit card processor assigns to a
3 merchant or to a payment card transaction that identifies
4 whether a merchant is a firearms retailer or whether the
5 payment card transaction involves the purchase of a firearm
6 or ammunition. The term "firearms code" includes, but is
7 not limited to, a merchant category code assigned to a
8 retailer by a payment card network or other credit card
9 processor;

10

11 (vii) "Firearms retailer" means any person
12 engaged in the lawful business of selling or trading
13 firearms or ammunition to be used in firearms;

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15 (viii) "Government entity" means any county or
16 municipality, or state board, commission, agency, bureau,
17 department or any other political subdivision of the state;

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19 (ix) "Protected financial information" means any
20 record of a sale, purchase, return or refund involving a
21 payment card that is retrieved, characterized, generated,
22 labeled, sorted or grouped based on the assignment of a
23 firearms code;

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2 (x) "This act" means W.S. 9-14-301 through
3 9-14-304.

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5 **9-14-303. Prohibitions on data collection and use.**

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7 (a) No state governmental agency or local government,
8 special district or other political subdivision or
9 official, agent or employee of the state or other
10 governmental entity or any other person, public or private,
11 shall knowingly or willfully keep or cause to be kept any
12 list, record or registry of privately owned firearms or any
13 list, record or registry of the owners of those firearms
14 created or maintained through the use of a firearms code.

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16 (b) No credit card processor shall require the usage
17 of or assign a firearms or ammunition merchant category
18 code to any merchant located in Wyoming that is a seller of
19 firearms or ammunition separately from general merchandise
20 retailers or sporting goods retailers.

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22 **9-14-304. Civil actions.**

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1 (a) The attorney general may investigate alleged
2 violations of this act and, upon finding a violation, shall
3 provide written notice to any person or entity, public or
4 private, believed to be in violation of this act. Upon
5 receipt of written notice from the attorney general, the
6 person or entity shall have thirty (30) days to cease the
7 usage of a firearms or ammunition merchant code for any
8 Wyoming merchant.

9

10 (b) If the person or entity fails to cease the usage
11 of a firearms or ammunition merchant code for any merchant
12 located in Wyoming after the expiration of thirty (30) days
13 from the receipt of the written notice by the attorney
14 general's office, the attorney general may pursue an
15 injunction against any person or entity, public or private,
16 alleged to be in violation of this act. A court may order
17 an injunction, in addition to any other relief, as the
18 court may consider appropriate.

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20 (c) It shall not be a defense to a civil action filed
21 under this act that information was disclosed to a federal
22 government entity unless the disclosure or action is
23 required by federal law or regulation.

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2 **Section 3.** W.S. 1-39-104(a) is amended to read:

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4 **1-39-104. Granting immunity from tort liability;**
5 **liability on contracts; exceptions.**

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7 (a) A governmental entity and its public employees
8 while acting within the scope of duties are granted
9 immunity from liability for any tort except as provided by
10 W.S. 1-39-105 through 1-39-112 and 1-39-122. Any immunity
11 in actions based on a contract entered into by a
12 governmental entity is waived except to the extent provided
13 by the contract if the contract was within the powers
14 granted to the entity and was properly executed and except
15 as provided in W.S. 1-39-120(b). The claims procedures of
16 W.S. 1-39-113 apply to contractual claims against
17 governmental entities.

18

19 **Section 4.** This act is effective July 1, 2024.

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(END)