



ARIZONA STATE SENATE
Fifty-Seventh Legislature, First Regular Session

FACT SHEET FOR S.B. 1143

firearms transactions; merchant codes; prohibition

Purpose

Establishes the *Second Amendment Financial Privacy Act* (Act) which prohibits a governmental entity from keeping a record of privately owned firearms or firearm owners and from distinguishing firearm retailers from other retailers and requires the Attorney General (AG) or county attorney to enforce the Act, as prescribed.

Background

The Arizona Constitution grants an individual citizen the right to bear arms in defense of the individual or the State of Arizona. An individual or corporation may not organize, maintain or employ an armed body of men ([Ariz. Const. art. 2 § 26](#)). The State of Arizona or any political subdivision of the state may not enact or implement any additional fee, tax, assessment, lien or other encumbrance on the transfer of a firearm between two private parties. A *private party* is a person who is not a prohibited possessor under state or federal law and does not include a person who possesses a federal firearms license and primarily engages in the business of selling, trading or purchasing firearms ([A.R.S. § 44-7852](#)).

A *firearm* is any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will expel or that is designed to or may readily be converted to expel a solid projectile by the action of expanding gases ([A.R.S. § 44-7851](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Preempts a government entity from knowingly keeping or causing to be kept any list, record or registry of privately owned firearms or the owners of the firearms.
2. Excludes, from the prohibition on government entities, records kept in the course of a criminal investigation or prosecution or as otherwise required by law.
3. Prohibits a *payment card network* from requiring or incentivizing the use of a *merchant category code* in a manner that distinguishes a *firearm retailer* from other retailers.
4. Prohibits a person and *covered entity* from *assigning* a *merchant category code* that distinguishes a *firearm retailer* from other retailers.
5. Entitles the AG or county attorney exclusive authority to enforce the Act.

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6. Requires the AG or county attorney to investigate any reasonable alleged violation of the Act and, if a violation is found, provide written notice to that person, *covered entity* or government entity.
7. Requires a person, *covered entity* or government entity to cease the violating conduct within 30 business days after receiving written notice.
8. Requires the AG or county attorney to file an injunction against a person, *covered entity* or government entity that fails to cease the violating conduct within 30 business days of notice.
9. Requires a court to grant the injunction and attorney fees and costs if the court finds that the person, *covered entity* or government entity has not ceased the violating conduct.
10. Requires, if a person, *covered entity* or government entity purposely fails to comply with injunction after 30 days of being properly served, the AG or county attorney to petition the court to seek a civil penalty of up to \$1,000 for each violation.
11. Requires a court, when assessing the civil penalty, to consider factors resulting from the violation, including the financial resources of the violator and the harm or risk of harm to the public.
12. Specifies that a court order that imposes a civil penalty must be stayed pending any appeal of the court's order.
13. States that it is a defense to any proceeding initiated pursuant to the Act that a *merchant category code* was required by law.
14. Designates the remedies set forth in the Act as exclusive remedies for any violation of the Act.
15. Designates this legislation as the *Second Amendment Financial Privacy Act*.
16. Defines the following terms:
 - a) *ammunition* includes cartridge cases, primers, bullets and propellant powder that is designed for use in any firearm;
 - b) a *covered entity* is an entity, or agent of the covered entity, that establishes a relationship with a retailer for the purpose of processing credit card, debit card or prepaid transactions;
 - c) a *firearm retailer* is any person or covered entity that is physically located in Arizona and engaged in the lawful selling or trading of firearms, antique firearms or ammunition; and
 - d) a *payment card network* is any covered entity, or agent of the covered entity, that provides the proprietary services, infrastructure and software to conduct debit or credit card transaction authorizations, clearances and settlements and accepts as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.
17. Defines *assign* or an *assignment* as a covered entity's policy, process or practice that labels, links or otherwise associates a merchant category code with a merchant or a payment card transaction in a manner that allows a covered entity or any other entity that facilitates or processes the payment card transaction to identify whether a merchant is a firearm retailer or whether a transaction involves the sale of firearms or ammunition.

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18. Defines a *merchant category code* as a code that is approved by an international organization for standardization or an equivalent successor organization specifically for firearm retailers and assigned to a retailer based on the types of good and services the retailer offers to a customer.
19. Defines terms.
20. Makes conforming changes.
21. Becomes effective on the general effective date.

Prepared by Senate Research

January 27, 2025

KJA/AG/slp