

HOUSE BILL NO. HB0097

Second amendment financial privacy act amendments.

Sponsored by: Representative(s) Haroldson, Knapp, McCann, Schmid, Smith and Styvar and Senator(s) Boner, French, Love and Steinmetz

A BILL

for

1 AN ACT relating to the protection of constitutional rights;
2 prohibiting the disclosure or use of information relating
3 to firearms and ammunition sales as specified; providing
4 requirements for disclosure of information relating to
5 firearms and ammunition sales; requiring investigations as
6 specified; authorizing civil actions as specified;
7 authorizing criminal and civil penalties; providing and
8 amending definitions; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 9-14-405 is created to read:

13

14 **9-14-405. Criminal actions.**

15

1 Any person who knowingly violates W.S. 9-14-403(a) is
2 guilty of a misdemeanor punishable by imprisonment for not
3 more than one (1) year, a fine of not more than two
4 thousand dollars (\$2,000.00), or both.

5

6 **Section 2.** W.S. 9-14-402(a)(iv), (vi), by creating
7 new paragraphs (xi) through (xvi) and by renumbering (xi)
8 as (xvii), 9-14-403(a), (b) and by creating a new
9 subsection (d), 9-14-404(a), (b) and by creating new
10 subsections (d) and (e) are amended to read:

11

12 **9-14-402. Definitions.**

13

14 (a) As used in this act:

15

16 (iv) "Financial record" means a financial record
17 held by a merchant servicer related to a payment card
18 transaction that the merchant servicer has processed or
19 facilitated, including any information derived from the
20 financial record;

21

22 (vi) "Firearms retailer" means any person
23 engaged in the lawful business of selling or trading

1 firearms, firearms accessories or components or ammunition
2 to be used in firearms;

3

4 (xi) "Ammunition" means ammunition or cartridge
5 cases, primers, bullets or propellant powder designed for
6 use in any firearm;

7

8 (xii) "Antique firearm" means as defined by W.S.
9 6-8-403(a)(viii);

10

11 (xiii) "Firearm" means any weapon that will, is
12 designed to or may readily be converted to expel a
13 projectile by the action of an explosive. "Firearm" shall
14 include an antique firearm;

15

16 (xiv) "Firearm accessory or component" means:

17

18 (A) A device specifically designed or
19 adapted to enable a person to wear or carry a firearm on
20 one's person or to store or mount a firearm in or on a
21 conveyance;

22

1 (B) An attachment or device that is
2 specifically designed or adapted to be inserted into or
3 affixed onto a firearm to enable, alter or improve the
4 functioning or capabilities of the firearm;

5

6 (C) An item that is used in conjunction
7 with or mounted upon a firearm but is not essential to the
8 basic function of the firearm, including but not limited to
9 telescopic or laser sights, magazines, flash or sound
10 suppressors, folding or aftermarket stocks and grips,
11 speedloaders, braces, ammunition carriers and lights for
12 target illumination;

13

17

18 (xv) "Merchant" means a person that accepts
19 payment cards from customers for the purchase of goods or
20 services. The terms includes a firearms retailer that
21 accepts payment cards from customers for the lawful
22 purchase of firearms, firearm accessories or components or
23 ammunition to be used in firearms;

1

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

7

8 (xi)-(xvii) "This act" means W.S. 9-14-401
9 through 9-14-404 9-14-405.

10

11 **9-14-403. Prohibitions on data collection and use.**

12

13 (a) No state governmental agency or local government,
14 special district or other political subdivision or
15 official, agent or employee of the state or other
16 governmental entity or any other person, public or private,
17 shall knowingly or willfully keep or cause to be kept any
18 list, record or registry of privately owned firearms or any
19 list, record or registry of the owners of those firearms
20 created or maintained through the use of a firearms code or
21 any other merchant category code. This subsection shall not
22 apply to any financial institution that is not a merchant
23 servicer or to any record maintained in the ordinary course

1 ~~of business of any financial institution or federal firearm~~
2 ~~licensee as required by 18 U.S.C. 922 state and its~~
3 ~~political subdivisions are prohibited from using any~~
4 ~~personnel or funds appropriated by the legislature or any~~
5 ~~other state funds to enforce, administer or cooperate with~~
6 ~~any law, executive order, final rule or regulation of the~~
7 ~~federal government that willfully keeps or causes to be~~
8 ~~kept any list, financial record or registry of privately~~
9 ~~owned firearms or any list, financial record or registry of~~
10 ~~the owners of those firearms created or maintained through~~
11 ~~the use of a firearms code or any other merchant category~~
12 ~~code. This subsection shall not apply to any record~~
13 ~~maintained in the ordinary course of business of any~~
14 ~~federal firearm licensee as required by 18 U.S.C. § 922.~~

15

16 (b) No merchant servicer shall require the usage of
17 or assign:

18

19 (i) ~~A firearms code or other merchant category~~
20 ~~code~~ to any merchant located in Wyoming;

21

22 (ii) ~~A merchant category code to any merchant~~
23 ~~located in Wyoming that is a seller of firearms, firearm~~

1 ~~accessories or ammunition distinguishes a merchant from a~~
2 general merchandise retailer or sporting goods retailer.

3

4 (d) No merchant servicer shall discriminate against a
5 merchant or customer located in Wyoming by declining a
6 lawful payment card transaction, limiting or declining to
7 do business with a firearms retailer or customer for a
8 lawful transaction or charging a higher transaction or
9 interchange fee to any merchant or customer for a lawful
10 payment card transaction based solely on the assignment or
11 nonassignment of a firearms code or any other merchant
12 category code that distinguishes a merchant from a general
13 merchandise retailer or a sporting goods retailer on the
14 basis of firearms sales, or otherwise take any action
15 against a merchant or customer located in Wyoming that is
16 intended to prohibit or suppress lawful commerce involving
17 firearms, firearm accessories or components or ammunition.

18

19 **9-14-404. Civil actions.**

20

21 (a) The attorney general ~~may~~shall investigate
22 alleged violations of this act and, upon finding a
23 violation, shall provide written notice to any person or

1 entity, public or private, believed to be in violation of
2 this act. Upon receipt of written notice from the attorney
3 general, the person or entity shall have thirty (30) days
4 to cease the usage of a firearms, ~~firearm accessories or~~
5 ~~ammunition merchant~~ code for any Wyoming merchant or any
6 other merchant category code that distinguishes a Wyoming
7 merchant from a general merchandise retailer or a sporting
8 goods retailer on the basis of firearms sales, or from any
9 discriminatory practices identified in W.S. 9-14-403(d).

10

11 (b) If the person or entity fails to cease the usage
12 of a firearms, ~~firearm accessories or ammunition merchant~~
13 code ~~for any or other~~ merchant ~~located in Wyoming category~~
14 ~~code in violation of this act or from any discriminatory~~
15 ~~practices identified in W.S. 9-14-403(d)~~ after the
16 expiration of thirty (30) days from the receipt of the
17 written notice by the attorney general's office, the
18 attorney general ~~may~~shall pursue an injunction against any
19 person or entity, public or private, alleged to be in
20 violation of this act. ~~A court may order an injunction, in~~
21 ~~addition to any other relief, as the court may consider~~
22 ~~appropriate.~~

23

1 (d) A merchant located in Wyoming whose business was
2 the subject of an alleged violation of this act or a
3 customer who completed a transaction with a merchant
4 located in Wyoming whose business was the subject of an
5 alleged violation of this act may petition the attorney
6 general to investigate the alleged violation. If the
7 attorney general does not commence an action within sixty
8 (60) days of receiving the petition, the merchant or
9 customer may file an action in a court of competent
10 jurisdiction to enjoin the person or entity from requiring
11 a firearms code or other merchant category code in
12 violation of this act or from any discriminatory practices
13 identified in W.S. 9-14-403(d). If a court finds that a
14 violation of this act has occurred and the person fails to
15 cease the activity constituting the violation, the court
16 shall order an injunction and attorney fees and costs, in
17 addition to any other relief as the court may deem
18 appropriate.

19
20 (e) If a person or entity requiring a firearms code
21 or merchant category code in violation of this act
22 knowingly and willfully fails to comply within thirty (30)
23 days after being served with the injunction, the attorney

1 general, upon petition to the court, shall recover on
2 behalf of the state a civil penalty not to exceed ten
3 thousand dollars (\$10,000.00) for each violation of the act
4 committed after the expiration of the thirty (30) day
5 period. In assessing a civil penalty, the court shall
6 consider factors resulting from the violation, including
7 the financial resources of the violator and the harm or
8 risk of harm to the rights of the injured person pursuant
9 to the second amendment to the United States constitution
10 and article 1, section 24 of the Wyoming constitution. An
11 order assessing a civil penalty for a violation of this
12 article shall be stayed pending any appeal of the order.

13

14 **Section 3.** This act is effective immediately upon
15 completion of all acts necessary for a bill to become law
16 as provided by Article 4, Section 8 of the Wyoming
17 Constitution.

18

19

(END)