

**FIRST ENGROSSMENT  
with Senate Amendments  
ENGROSSED HOUSE BILL NO. 1487**

Introduced by

Representatives Koppelman, Hauck, Heinert, Kasper, Louser, Novak, Tveit

Senators Larsen, Magrum, Wobbema

1 A BILL for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code,  
2 relating to financial entities use of merchant codes to track firearm and ammunition-related  
3 purchases; to provide a penalty; and to provide a continuing appropriation.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 6 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter, unless the context or subject matter otherwise requires:

- 9 1. "Customer" means any person engaged in a payment card transaction facilitated or  
10 processed by a financial entity.
- 11 2. "Disclosure" means the transfer, publication, or distribution of protected financial  
12 information to another person for any purpose other than the processing or facilitating  
13 of a payment card transaction, or other than taking any actions related to dispute  
14 processing, fraud management, or protecting transaction integrity from concerns  
15 related to illegal activities, breach, or cyber risks.
- 16 3. "Financial entity" means a person involved in facilitating or processing a payment card  
17 transaction, including a bank, acquirer, payment card network, or payment card issuer.
- 18 4. "Firearms code" means a merchant category code approved by the international  
19 organization for standardization for firearms retailers.
- 20 5. "Firearms retailer" means any person physically located in this state engaged in the  
21 lawful business of selling or trading firearms or ammunition to be used in firearms.
- 22 6. "Government entity" means any state board, commission, agency, bureau, or  
23 department, or any political subdivision of the state.

1       7. "Protected financial information" means any record of sale, purchase, return, or refund  
2           involving a payment card which is retrieved, characterized, generated, labeled, sorted,  
3           or grouped based on the assignments of a firearms code.

4       **Merchant codes - Limitations.**

- 5       1. Except for those records kept during the regular course of a criminal investigation and  
6           prosecution or merchant marketing campaigns, a government entity or any official,  
7           agent, or employee of the state, or any other person, may not willfully keep or cause to  
8           be kept any list, record, or registry of privately owned firearms or firearm owners.
- 9       2. A financial entity or its agent may not require the use of a firearms code in a manner  
10           that distinguishes a firearms retailer located in this state from a general merchandise  
11           retailer or a sporting goods retailer.
- 12       3. A financial entity may not engage in the following discriminatory conduct:
- 13           a. Declining a lawful payment card transaction based solely on the assignment of a  
14           firearms code; or
- 15           b. Taking any action against a customer which is intended to suppress or track  
16           lawful commerce involving firearms or ammunition.
- 17       4. Nothing in this section may impair the financial entity's actions related to dispute  
18           processing, fraud management, protecting transaction integrity from concerns related  
19           to illegal activities, breach, cyber risks, or to comply with state or federal law.

20       **Investigation of financial entities.**

- 21       1. The attorney general shall process claims of alleged violations of this chapter, may  
22           investigate alleged violations under this chapter, and shall provide a written notice to  
23           any person in violation. A person that has received a written notice from the attorney  
24           general must cease the use of a firearms code within thirty calendar days.
- 25       2. The attorney general may pursue, and a court may order, an injunction against any  
26           person if the person fails to cease the use of a firearms code after the expiration of  
27           thirty days from receipt of written notice.
- 28       3. If a court issues an injunction under this section, the court shall award the attorney  
29           general reasonable expenses, including reasonable attorney's fees and costs.
- 30       4. If the attorney general finds a financial entity willfully violated this chapter, the attorney  
31           general shall assess a fee of ten thousand dollars. Fees collected under this section

1           must be deposited into the merchant code violation fund. A financial entity desiring to  
2           appeal the attorney general's finding of a violation under this chapter may appeal the  
3           finding in accordance with chapter 28-32.

4        5.   Information disclosed to a federal government entity is not a defense to any civil action  
5           filed under this section, unless the disclosure or action is required by federal law or  
6           regulation.

7        **Merchant code violation fund - Continuing appropriation.**

8        There is created in the state treasury the merchant code violation fund. The fund consists of  
9        all money deposited in the fund under this chapter. Moneys in the fund are appropriated to the  
10       attorney general on a continuing basis for disbursement to individuals harmed by a violation of  
11       this chapter, subject to approval by the attorney general, and administrative expenses. An  
12       individual harmed by a violation under this chapter may submit a request to the attorney general  
13       for a disbursement of five thousand dollars from the fund, and the attorney general shall review  
14       all requests for disbursement submitted under this chapter. The attorney general may use  
15       money remaining in the fund after disbursements to defray the costs of administering and  
16       enforcing this chapter.