

HOUSE BILL NO. HB0234

Second Amendment Financial Privacy Act amendments.

Sponsored by: Representative(s) Allemand, Angelos, Banks, Bear, Brown, G, Campbell, K, Guggenmos, Haroldson, Heiner, Hoeft, Johnson, Knapp, Lien, Locke, Lucas, Pendergraft, Schmid, Smith, S, Strock, Styvar, Tarver, Wasserburger, Webber, Wharff, Williams and Winter and Senator(s) Hutchings, Ide, McKeown and Pearson

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; requiring investigations as
5 specified; authorizing civil actions as specified;
6 authorizing criminal penalties; providing and amending
7 definitions; and providing for an effective date.

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

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

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1 **9-14-405. Criminal actions.**

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

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

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

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16 (a) As used in this act:

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

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1 (vi) "Firearms retailer" means any person
2 engaged in the lawful business of selling or trading
3 firearms, firearms accessories or components or ammunition
4 to be used in firearms;

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

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10 (xii) "Antique firearm" means as defined by W.S.
11 6-8-403(a)(viii);

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

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

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20 (A) A device specifically designed or
21 adapted to enable a person to wear or carry a firearm on
22 the person or to store or mount a firearm in or on a
23 conveyance;

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

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

(D) A component for making ammunition, reloading materials and equipment, machinery and tools for manufacturing ammunition.

(xv) "Merchant" means a person that accepts payment cards from customers for the purchase of goods or services. The terms includes a firearms retailer that accepts payment cards from customers for the lawful

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

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

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

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13 **9-14-403. Prohibitions on data collection and use.**

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

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

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18 (b) No merchant servicer shall require the usage of
19 or assign:

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

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1 (ii) A merchant category code to any merchant
2 located in Wyoming that ~~is a seller of firearms, firearm~~
3 ~~accessories or ammunition~~ distinguishes a merchant from a
4 general merchandise retailer or sporting goods retailer.

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

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21 **9-14-404. Civil actions.**

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

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

1 ~~addition to any other relief, as the court may consider~~
2 ~~appropriate.~~

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

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

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

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(END)