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S.B. 148*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Veterans and Public Safety

Primary Sponsor: Sen. Johnson

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SUMMARY

- Prohibits government entities from keeping any list of privately owned firearms or owners of firearms.
- Prohibits financial institutions from assigning a firearms code in a way that distinguishes between a firearms retailer and other retailers.
- Prohibits financial institutions from declining a payment card transaction involving a firearms dealer merely because the transaction is assigned a firearms code.
- Empowers the Attorney General to investigate alleged violations of the above prohibitions and to bring a civil action against the perpetrator.
- Names the bill the Second Amendment Financial Privacy Act.

DETAILED ANALYSIS

The bill enacts the Second Amendment Financial Privacy Act (SAFPA), which includes several requirements related to the confidentiality or anonymity of purchases involving firearms and ammunition. The SAFPA also prohibits certain actions by financial institutions that might differentiate or disfavor firearms merchants or transactions involving firearms and ammunition.

Government registry of privately owned firearms

The bill prohibits government entities from keeping a registry of privately owned firearms. Specifically, it prohibits (1) the state, a political subdivision of the state, or any court,

* This analysis was prepared before the report of the Senate Veterans and Public Safety Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

agency, or instrumentality of the foregoing, (2) an employee of the foregoing, or (3) a government official, from keeping a list, record, or registry of privately owned firearms or the owners of said firearms.

The bill allows an exception for firearm records required by law, or those kept during the regular course of a criminal investigation or prosecution.¹

Financial institutions and firearm retailers

Prohibit firearms codes

The bill also introduces new requirements for financial intuitions concerning payment card transactions (i.e., transactions involving a credit card, charge card, debit card, or any other card that allows an authorized user to purchase goods or services from a merchant) with firearm retailers. First, it prohibits financial institutions from assigning a firearms code to distinguish firearms retailers from other retailers. The bill defines “firearms retailer” as a person or entity that is lawfully engaged in selling or trading firearms and ammunition (including antique firearms and ammunition) from a physical place of business in Ohio.

A firearms code is defined as a merchant category code approved by the International Organization for Standardization, or an equivalent successor organization, and specifically assigned to a firearms retailer. Under the bill, a firearms code is “assigned” if the financial institution’s policy, process, or practice labels, links, or otherwise associates the code with a merchant or payment card transaction in a way that allows the financial institution or a facilitating or processing entity to identify whether the merchant is a firearms retailer or whether the transaction involves the sale of firearms or ammunition.²

Prohibit declining firearms transactions

Second, the bill prohibits a financial institution from declining a transaction involving a firearms retailer solely on the assignment of a firearms code. However, financial intuitions may still decline or refuse to process a firearms-related payment for any of the following reasons: if necessary to comply with applicable state or federal law, if requested by the customer, if necessary due to fraud controls, or for the purpose of merchant category exclusions offered by a financial institution for the purpose of expenditure control or corporate card control. Financial intuitions may also continue to take action related to dispute processing, fraud risk, credit management, or other controls in the ordinary course of business, protecting against illegal activities, and restricting the use or availability of a firearms code.³

¹ R.C. 1349.84(H) and 1349.85(A).

² R.C. 1349.84 and 1349.85(B)(1).

³ R.C. 1349.85(B)(2), (C), and (D).

Enforcement

The bill empowers the Attorney General to investigate reasonable allegations of violations of SAFPA. If the Attorney General determines that SAFPA was violated, written notice must be provided to the violator, who then has 30 days to cease the violation. If the violation does not cease within 30 days, the Attorney General must file an action against the violator. If the court finds that the person or entity violated SAFPA and has not ceased the violation, it must enjoin the person from continuing that activity and may award any other relief the court considers appropriate.

If the violator fails to comply within 30 days of receiving the injunction, the Attorney General is required to petition the court to impose a fine of not more than \$1,000 per violation. The court must consider various factors in assessing the fine, including the financial resources of the violator, and the harm or risk of harm to Second Amendment rights resulting from the violation.

The injunction and civil fine described above are the exclusive remedies for SAFPA violations.⁴

HISTORY

Action	Date
Introduced	09-05-23
Reported, S. Veterans & Public Safety	---

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⁴ R.C. 1349.86.