A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by ENACTing THE “second amendment financial privacy act” BY ADDING article 11 to chapter 31, title 23 So as to define certain terms, to provide under certain circumstanceS no government entity shall knowingly keep a record of privately owned firearms or their owners and TO provide penalties for violations.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 31, Title 23 of the S.C. Code is amended by adding:

Article 11

Second Amendment Financial Privacy Act

Section 23-31-1110. This article shall be known and may be cited as “The Second Amendment Financial Privacy Act.”

Section 23-31-1120. As contained in this article:

(1) “Ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(2) “Assign” or “assignment” refers to 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 the covered entity or any other entity facilitating or processing the payment card transaction to identify whether a merchant is a firearm retailer or whether a transaction involves the sale of firearms or ammunition.

(3) “Covered entity” means an entity, or agent of an entity, that establishes a relationship with a retailer for the purpose of processing credit, debit, or prepaid transactions.

(4) “Firearm” means a pistol, revolver, rifle, shotgun, machine gun, submachine gun, or an assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive and includes a firearm component or accessory.

(5) “Firearm retailer” means any person or entity that is physically located in this State and is engaged in the lawful selling or trading of firearms, antique firearms, or ammunition to be used in firearms or antique firearms.

(6) “Government entity” means the State, a political subdivision of the State, or any court, agency, or instrumentality of the foregoing.

(7) “Merchant category code” means the code, approved by the international organization for standardization or an equivalent successor organization specifically for firearm retailers, that is assigned to a retailer based on the types of goods and services offered to a retailer’s customers.

(8) “Payment card” means credit card, charge card, debit card, or any other card that is issued to a customer and allows the customer to purchase goods or services from a merchant.

(9) “Payment card network” means an entity, or agent of an entity, that provides the proprietary services, infrastructure, and software to conduct debit card or credit card transaction authorizations, clearances, and settlements and that an entity uses to accept 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.

(10) “Payment card transaction” means any transaction in which a payment card is accepted as payment.

Section 23-31-1130. (A) Except for those records kept during the regular course of a criminal investigation and prosecution, or as otherwise required by law, no government entity or official and no agent or employee of a government entity shall knowingly keep or cause to be kept any list, record, or registry of privately owned firearms or the owners of those firearms.

(B) A payment card network shall not require or incentivize the use of a merchant category code in a manner that distinguishes a firearm retailer from other retailers.

(C) A covered entity shall not assign a firearm retailer a merchant category code that distinguishes the firearm retailer from other retailers.

Section 23-31-1140. (A) The Attorney General shall investigate reasonable allegations that a person or entity, including a government entity, has violated the provisions of this article and, upon finding violation, provide written notice to the person or entity believed to have committed the violation. The person or entity shall cease the violation within thirty business days after receiving written notice from the Attorney General pursuant to this section.

(B)(1) If a person or entity does not cease the violation within thirty business days after receiving written notice from the Attorney General in accordance with this section, the Attorney General shall file an action against that person or entity to seek an injunction.

(2) If the court finds that the person or entity violated the provisions of this article and has not ceased the activity constituting the violation, the court shall enjoin the person or entity from continuing such activity and shall award attorney’s fees and costs.

(3) If a person or entity purposely fails to comply with an injunction issued pursuant to this subsection after thirty business days of being served with the injunction, the Attorney General, upon petition to the court, shall seek to impose on that person or entity a civil fine in an amount not to exceed one thousand dollars per violation. In assessing such a civil fine, the court shall consider factors resulting from the violation, including the financial resources of the violator and the harm or risk of harm to the rights under the Second Amendment to the United States Constitution and laws of this State.

(4) An order assessing a civil fine pursuant to this subsection shall be stayed pending appeal of the order.

(C) The Attorney General has exclusive authority to enforce the provisions of this article. The remedies set forth in this section are the exclusive remedies for any violation of this article.

(D) It shall be a defense to a proceeding initiated pursuant to this section that a merchant category code was required to be permitted or assigned by law.

SECTION 2. This act takes effect upon approval by the Governor.

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