

1 AN ACT relating to firearms.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Customer" means any person engaged in a payment card transaction that*
7 *a financial institution facilitates or processes;*

8 *(b) "Disclose" means the transfer, publication, or distribution of protected*
9 *financial information to another person for any purpose other than:*

10 *1. Processing or facilitating a payment card transaction;*

11 *2. Taking any action related to:*

12 *a. Dispute processing; or*

13 *b. Fraud management; or*

14 *3. Protecting payment card transaction integrity from any one (1) or*
15 *more of the following:*

16 *a. Illegal activities;*

17 *b. Data breach; or*

18 *c. Cybersecurity risks;*

19 *(c) "Financial institution" means any person, other than a retailer, involved in*
20 *facilitating or processing a payment card transaction, including but not*
21 *limited to:*

22 *1. A bank;*

23 *2. A credit union;*

24 *3. An acquirer;*

25 *4. A payment card network; and*

26 *5. A payment card issuer;*

27 *(d) "Firearms code":*

- 1 1. Means a code used to categorize or track sales, purchases, returns, or
2 refunds:
- 3 a. From firearms retailers separately from other retailers; or
4 b. Of firearms separately from other purchases; and
- 5 2. Includes but is not limited to merchant category code 5723 approved
6 in September 2022 by the International Organization for
7 Standardization for firearms retailers;
- 8 (e) "Firearms retailer" means any person engaged in the lawful business of
9 selling or trading:
- 10 1. Firearms; or
11 2. Ammunition to be used in firearms; and
- 12 (f) "Protected financial information" means any record of a sale by, purchase
13 from, return to, or refund from a firearms retailer involving a payment card
14 that is retrieved, characterized, generated, labeled, sorted, or grouped as a
15 result of the assignment of a firearms code.
- 16 (2) Except as provided in subsection (5) of Section 3 of this Act, a financial
17 institution or its agent shall not do any of the following with respect to sales,
18 purchases, returns, and refunds made in Kentucky:
- 19 (a) Require or incentivize the use of a firearms code;
20 (b) Discriminate against a firearms retailer by declining or otherwise refusing
21 to process a lawful payment card transaction based solely on the assignment
22 or nonassignment of a firearms code unless the declination or refusal is:
- 23 1. Necessary to comply with this section;
24 2. Requested by the customer; or
25 3. Due to fraud controls or merchant category exclusions offered by a
26 financial institution for the purpose of expenditure control or
27 corporate card control; or

1 (c) Disclose protected financial information, including a firearms code that was
 2 collected in violation of this section.

3 (3) Nothing in this section shall be construed to limit the ability of a financial
 4 institution to negotiate with responsible parties or otherwise impair the financial
 5 institution's actions related to:

6 (a) Dispute processing;

7 (b) Fraud management; or

8 (c) Protecting payment card transaction integrity from one (1) or more of the
 9 following:

10 1. Illegal activities;

11 2. Data breach; or

12 3. Cybersecurity risks.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) No person, unit of government, or governmental organization shall, during a
 16 period of disaster or emergency as specified in KRS Chapter 39A or at any other
 17 time, knowingly and willfully keep or cause to be kept any list, record, or registry
 18 of privately owned firearms or any list, record, or registry of the owners of the
 19 firearms, except for those records kept during the regular course of a criminal
 20 investigation and prosecution or as otherwise required by law.

21 (2) Nothing in this section shall prevent an owner or an owner's representative from
 22 maintaining a list of the owner's firearms.

23 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) As used in this section, "firearms retailer" has the same meaning as in Section 1
 26 of this Act.

27 (2) (a) The Attorney General shall investigate any alleged violation of Section 1 or

1 2 of this Act.

2 (b) The following may petition the Attorney General to investigate an alleged
3 violation under paragraph (a) of this subsection:

4 1. A firearms retailer, or a customer who made a transaction at a
5 firearms retailer, whose business is the subject of any alleged violation
6 of Section 1 of this Act; and

7 2. A person whose firearms ownership is the subject of any alleged
8 violation of Section 2 of this Act.

9 (3) (a) 1. Upon finding a violation of Section 1 or 2 of this Act, the Attorney
10 General shall provide written notice of the finding to the violating
11 person, public or private.

12 2. Written notice to a commercial entity under subparagraph 1. of this
13 paragraph shall be made to the entity's registered agent.

14 (b) Within thirty (30) days of receiving a written notice under paragraph (a) of
15 this subsection, the person shall cease any violation of Section 1 or 2 of this
16 Act.

17 (4) (a) The Attorney General shall pursue, in a court of competent jurisdiction, an
18 injunction against any person, public or private, that fails to comply with
19 subsection (3)(b) of this section.

20 (b) If the court finds that a person continues to be in violation of Section 1 or 2
21 of this Act, the court shall issue an injunction enjoining the person from
22 continuing the violation.

23 (c) Within thirty (30) days of being served with an injunction issued under
24 paragraph (b) of this subsection, the person shall cease any violation of
25 Section 1 or 2 of this Act.

26 (d) 1. If a person knowingly and willfully fails to comply with paragraph (c)
27 of this subsection, the Attorney General shall petition the court to

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recover on behalf of the state:

a. A civil penalty not to exceed ten thousand dollars (\$10,000) per violation of paragraph (c) of this subsection; and

b. The reasonable costs of investigation and litigation.

2. In assessing a civil penalty under subparagraph 1.a. of this paragraph, the court shall consider, but not be limited to, the following factors:

a. The financial resources of the violator; and

b. The harm or risk of harm to rights to keep and bear arms under:

i. The Second Amendment of the United States Constitution;

and

ii. Section 1 of the Constitution of Kentucky.

3. Any order assessing one (1) or more penalties under subparagraph 1. of this paragraph shall be stayed pending appeal of the order.

(5) It shall be a defense to any alleged violation of Section 1 or 2 of this Act that the person made a good-faith determination that the person's disclosure or action was required by law.

(6) The remedies set forth in this section shall be the exclusive remedies for any violation of Section 1 or 2 of this Act.

➔Section 4. This Act may be cited as the Second Amendment Privacy Act.

➔Section 5. This Act takes effect January 1, 2025.