

**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; to provide a continuing appropriation; and to provide for a
4 legislative management study.

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

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

8 **Definitions.**

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

- 10 1. "Customer" means any person engaged in a payment card transaction facilitated or
11 processed by a financial entity.
- 12 2. "Disclosure" means the transfer, publication, or distribution of protected financial
13 information to another person for any purpose other than the processing or facilitating
14 of a payment card transaction, or taking any actions related to dispute processing,
15 fraud management, or protecting transaction integrity from concerns related to illegal
16 activities, breach, or cyber risks.
- 17 3. "Financial entity" means a person involved in facilitating or processing a payment card
18 transaction, including a bank, acquirer, payment card network, or payment card issuer.
- 19 4. "Firearms code" means a merchant category code approved by the international
20 organization for standardization for firearms retailers.
- 21 5. "Firearms retailer" means any person physically located in this state engaged in the
22 lawful business of selling or trading firearms or ammunition to be used in firearms.
- 23 6. "Government entity" means any state board, commission, agency, bureau, or
24 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. Any person may allege violations under this chapter to the attorney general. The
22 attorney general may investigate alleged violations under this chapter and shall
23 provide a written notice to any person in violation. A person that has received a written
24 notice from the attorney general must cease the use of a firearms code within thirty
25 calendar days.

26 2. The attorney general may pursue, and a court may order, an injunction against any
27 person if the person fails to cease the use of a firearms code after the expiration of
28 thirty days from receipt of written notice.

29 3. If a court issues an injunction under this section, the court shall award the attorney
30 general reasonable expenses, including reasonable attorney's fees and costs.

1 4. If the attorney general finds a financial entity willfully violated this chapter, the attorney
2 general shall assess a fee of ten thousand dollars per transaction. Fees collected
3 under this section must be deposited into the merchant code violation fund. A financial
4 entity desiring to appeal the attorney general's finding of a violation under this chapter
5 may appeal the finding in accordance with chapter 28-32.

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

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

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

19 **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - ELECTRONIC PAYMENT**

20 **TRANSACTION INTERCHANGE FEES.** During the 2023-24 interim, the legislative
21 management shall consider studying interchange fees charged on electronic payment
22 transactions and the effect on merchants or sellers of applying interchange fees on electronic
23 payment transactions to state and local taxes imposed at the point of sale. The legislative
24 management shall report its findings and recommendations, together with any legislation
25 required to implement the recommendations, to the sixty-ninth legislative assembly.