



2025 South Dakota Legislature
Senate Bill 81
ENROLLED

AN ACT

ENTITLED An Act to prohibit the use of a firearms code for transactions involving firearms, accessories, components, and ammunition and to provide a civil penalty therefor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That a NEW SECTION be added to a new chapter in title 37:

Terms used in this Act mean:

- (1) "Ammunition," firearm ammunition and cartridge casings, primers, bullets, and propellant powder, designed for use in a firearm;
- (2) "Assignment," a financial institution's policy, process, or practice, which labels, links, or otherwise associates a firearms code with a merchant or payment card transaction, in a manner that allows the financial institution or any other entity facilitating or processing the payment card transaction to identify whether:
 - (a) A merchant is a firearms dealer; or
 - (b) A transaction involves the sale of firearms or ammunition;
- (3) "Customer," any person engaged in a payment card transaction that a financial institution facilitates or processes and any person, or the person's duly authorized representative, who has transacted business with or has used the services of a financial institution, or for whom a financial institution has acted as a fiduciary in relation to an account maintained in the person's name;
- (4) "Disclosure," the transfer, publication, or distribution of protected financial information to another person, for any purpose other than to process or facilitate a payment card transaction;
- (5) "Financial institution," a bank, savings and loan association, trust company, or credit union chartered pursuant to any state or federal law; a regulated consumer lender, a money service business, payment card issuer, or other institution that is by law under the jurisdiction of the Division of Banking; and an entity involved in

- facilitating or processing a payment card transaction, including a bank, acquirer, gateway, payment card network, or payment card issuer;
- (6) "Financial record," any:
- (a) Original or copy of a record or document held by a financial institution, which pertains to a customer of the financial institution, including any record of a transaction conducted by means of a customer bank communication terminal or other electronic device;
 - (b) A record held by a financial institution, which relates to a payment card transaction that the financial institution has processed or facilitated; and
 - (c) Information derived from any record or document referenced in this subdivision;
- (7) "Firearm," a weapon that is capable of expelling, is designed to expel, or may readily be converted to expel a projectile by action of an explosive;
- (8) "Firearm accessory or component," any:
- (a) Device that is specifically adapted to enable the carrying, storage, or wearing of a firearm;
 - (b) Device that is specifically adapted to enable the mounting of a firearm in or on any conveyance;
 - (c) Device that is specifically adapted to be inserted into or affixed to a firearm to alter, enable, or improve the capabilities or the functioning of the firearm;
 - (d) Ammunition carrier, aftermarket grip or stock, brace, flash suppressor, folding stock, laser sight, light for target illumination, magazine, sound suppressor, speed loader, telescopic sight, or any other item used in conjunction with or mounted upon a firearm; and
 - (e) Equipment, machinery, material, tool, or other component used in making, manufacturing, or reloading ammunition;
- (9) "Firearms code," an indicator or code that:
- (a) A financial institution assigns to a merchant or to a payment card transaction and which identifies whether a merchant is a firearms dealer or whether the payment card transaction involves the purchase of a firearm, firearm accessories or components, or ammunition; and
 - (b) Includes a merchant category code assigned to a retailer by a payment card network or other financial institution;
- (10) "Firearms dealer," any:
- (a) Retailer or merchant of firearm accessories or components;

- (b) Any person engaged in the lawful business of selling or trading firearms or antique firearms, as those terms are defined in 18 U.S.C. § 921 (January 1, 2025); or
- (c) Any person engaged in the lawful business of selling ammunition for use in firearms or antique firearms;
- (11) "Governmental entity," this state, any political subdivision of this state, and any agency or instrumentality of this state or a political subdivision of this state;
- (12) "Merchant," an individual or entity accepting a payment card from a customer for the purchase of a good or service, including a firearms dealer that accepts payment cards for the lawful purchase of firearms, firearm accessories or components, or ammunition;
- (13) "Payment card," a charge card, credit card, debit card, or any other card that is issued to an authorized user and allows the user to purchase goods or services from a merchant; and
- (14) "Protected financial information," any record of a sale, purchase, return, or refund, involving a payment card that is retrieved, characterized, generated, labeled, sorted, or grouped based on the assignment of a firearms code, provided a customer's protected financial information refers to protected financial information appearing in the financial records of a customer.

Section 2. That a NEW SECTION be added to a new chapter in title 37:

With the exception of records kept during the regular course of a criminal investigation and prosecution, or as otherwise required by law, no governmental entity or official, agent, or employee of a governmental entity or any person other than the owner or owner's representative, may knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or the owners of those firearms.

Section 3. That a NEW SECTION be added to a new chapter in title 37:

Neither a financial institution nor an agent of a financial institution may require the use of a firearms code in a way that distinguishes a firearms dealer physically located in this state from a general merchandise retailer or a sporting goods retailer located in this state.

Section 4. That a NEW SECTION be added to a new chapter in title 37:

A financial institution may not discriminate against a firearms dealer by:

- (1) Declining a lawful payment card transaction based solely on the assignment or non-assignment of a firearms code to the merchant or the transaction;
- (2) Limiting or declining to do business with a customer, potential customer, or merchant, based on the assignment or non-assignment of a firearms code to previous lawful transactions involving the customer, potential customer, or merchant;
- (3) Charging a merchant a higher transaction or interchange fee for a lawful transaction based on the assignment or non-assignment of a firearms code; or
- (4) Taking any other action against a customer or merchant with the intent of suppressing lawful commerce involving firearms, firearm accessories or components, or ammunition, if the action is based solely or in part on the customer's or merchant's business involving firearms, firearm accessories or components, or ammunition.

Section 5. That a NEW SECTION be added to a new chapter in title 37:

The attorney general may investigate any alleged violation of this Act and shall provide written notice to any individual or entity, public or private, believed to be in violation. Written notice to any commercial entity must be made to the entity's registered agent.

Upon receipt of a written notice from the attorney general, the alleged violator must cease usage of the firearms code within thirty calendar days. The attorney general may extend the period for up to an additional one hundred and twenty days.

Section 6. That a NEW SECTION be added to a new chapter in title 37:

The attorney general may be petitioned to investigate an alleged violation of this Act by:

- (1) A firearms dealer physically located in this state, if the dealer's business was the subject of an alleged violation of this Act; or
- (2) A customer who engaged in a transaction with a firearms dealer physically located in this state, if the dealer's business was the subject of an alleged violation of this Act.

If the attorney general does not commence an action within ninety days of receiving a petition under this section, the firearms dealer or the customer may file an

action in a court of competent jurisdiction to enjoin the individual or entity from engaging in a violation of this Act.

Section 7. That a NEW SECTION be added to a new chapter in title 37:

If an individual or entity, public or private, is found to be in violation of this Act after the later of the expiration of thirty calendar days from the receipt of written notice by the attorney general or the expiration of any extension granted by the attorney general, the attorney general must pursue an injunction against the individual or entity, in a court of competent jurisdiction in the circuit court for the county where the alleged violation occurred.

If a court finds that an individual or entity continues to be in violation of this Act after the later of thirty calendar days from the receipt of written notice by the attorney general or the expiration of any extension granted by the attorney general, or after a finding of a violation of this Act by a court, the court must enjoin the individual or entity from continuing to violate this Act.

If thirty days after the issuance of an injunction an individual or entity knowingly and willfully fails to comply, as provided for in this section, the court must impose a civil penalty in the amount of twenty-five thousand dollars or the amount of actual damages for each violation occurring after the conclusion of the thirty-day period. In assessing the penalty, the court may consider the financial resources of the violator and any harm or risk of harm to an individual's rights under the U.S. Const. amend. II, resulting from the violation. The court shall forward any civil penalty collected under this section to the state treasurer, for deposit in the general fund.

In addition to the remedies provided for in this section, the attorney general or a petitioner who prevails in an action under this Act shall recover costs and reasonable attorney's fees.

Section 8. That a NEW SECTION be added to a new chapter in title 37:

It is not a defense to an action filed pursuant to this Act that information was disclosed to a federal government entity, unless the disclosure or action was based on a good faith conclusion that the disclosure or action was required by federal law or regulation.

An Act to prohibit the use of a firearms code for transactions involving firearms, accessories, components, and ammunition and to provide a civil penalty therefor.

I certify that the attached Act originated in
the:
Senate as Bill No. 81

Received at this Executive Office
this ____ day of _____,
2025 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this _____ day of
_____, A.D., 2025

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2025
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 81
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State