

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 564
PROPOSED COMMITTEE SUBSTITUTE H564-PCS10444-TM-8

Short Title: Second Amendment Financial Privacy Act. (Public)

Sponsors:

Referred to:

April 5, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE SECOND AMENDMENT FINANCIAL PRIVACY ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 66 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 51.

7 "Second Amendment Financial Privacy Act.

8 "**§ 66-501. Legislative findings.**

9 The General Assembly finds all of the following:

- 10 (1) The right of individuals to keep and bear arms is guaranteed under both the
11 Second Amendment to the United States Constitution and Section 30 of
12 Article I of the North Carolina Constitution.
13 (2) In September 2022, the International Organization for Standardization, based
14 in Switzerland, approved a new merchant category code for firearms
15 merchants.
16 (3) The new merchant category code would allow payment card networks and
17 others involved in payment card processing to identify and separately track
18 lawful payment card purchases at firearms merchants in North Carolina. This
19 surveillance would cause a significant chilling effect on individuals in North
20 Carolina wishing to exercise their federal and State constitutional rights to
21 keep and bear arms.
22 (4) In order to protect consumers in this State and promote lawful commerce in
23 this State, the Second Amendment Financial Privacy Act prohibits payment
24 card networks from using a firearms code or maintaining a firearms registry.

25 "**§ 66-502. Definitions.**

26 The following definitions apply in this Article:

- 27 (1) Firearms code. – Any code or other indicator that identifies to a payment card
28 network any of the following:
29 a. Whether a person is a firearms merchant.
30 b. Whether a payment involves the purchase of a firearm or firearm
31 ammunition.
32 (2) Firearms merchant. – A person engaged in the lawful business of selling or
33 trading firearms or firearm ammunition.
34 (3) Payment card network. – An entity involved in facilitating or processing an
35 electronic transfer of funds between a merchant and a customer using a
36 payment card. This term does not include the following:



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- 1 a. A bank holding federally insured deposits from individuals.
2 b. A credit union holding federally insured deposits from individuals.

3 **"§ 66-503. Prohibitions.**

4 (a) No payment card network shall use a firearms code in connection with a payment
5 card transaction involving a firearms merchant located in this State.

6 (b) No payment card network shall knowingly maintain a record of individuals residing
7 in this State who own firearms.

8 (c) No payment card network shall discriminate against a firearms merchant based solely
9 on the assignment or nonassignment of a firearms code, including by refusing to serve on similar
10 terms or declining a lawful payment card transaction.

11 **"§ 66-504. Enforcement; civil penalty.**

12 (a) The Attorney General may investigate an alleged violation of this Article. After notice
13 and an opportunity for hearing, if the Attorney General determines that a payment card network
14 violated this Article, the Attorney General may assess a civil penalty of not more than ten
15 thousand dollars (\$10,000) for each violation. The clear proceeds of any penalty assessed
16 pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance
17 with G.S. 115C-457.2.

18 (b) The powers vested in the Attorney General by this Article are in addition to and do
19 not limit the ability of the Attorney General to take other enforcement action.

20 **"§ 66-505. Civil liability for violation.**

21 (a) Cause of Action. – A civil action may be brought against a payment card network for
22 violation of this Article by any of the following:

23 (1) A firearms merchant located in this State whose payment card transactions are
24 designated with a firearms code.

25 (2) A person that makes a payment card transaction with a firearms merchant
26 located in this State and whose payment card record includes a firearms code
27 for that transaction.

28 (3) An individual for whom a payment card network maintains a record of firearm
29 ownership.

30 (b) Relief and Damages. – A person authorized to institute a civil action by subsection
31 (a) of this section may seek and the court may award any or all of the following types of relief:

32 (1) An injunction to enjoin continued violation of this Article.

33 (2) Statutory damages in the amount of ten thousand dollars (\$10,000) for each
34 instance of violation of this Article connected to the person filing the civil
35 action.

36 (3) Costs and attorneys' fees.

37 (c) Statute of Limitations. – No action shall be maintained under subsection (a) of this
38 section unless it is commenced no later than three years after the discovery of the violation of
39 this Article."

40 **SECTION 2.** This act becomes effective October 1, 2023.