

HOUSE BILL No. 1084

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-27.5.

Synopsis: Privacy of firearms financial transactions. Prohibits a governmental entity or any other person from knowingly or willfully keeping any list, record, or registry of: (1) privately owned firearms; or (2) the owners of firearms; with respect to Indiana consumers. Defines a "firearms code" as a merchant category code approved by the International Organization for Standardization specifically for firearms retailers. Provides that in a payment card transaction, a merchant acquirer or a payment card network may not: (1) use; or (2) require the use of; a firearms code in a way that distinguishes a firearms retailer with at least one physical location in Indiana from general merchandise retailers or sporting goods retailers. Prohibits a financial services provider from declining or otherwise refusing to process a lawful payment card transaction based solely on the assignment or nonassignment of a firearms code to the payment card transaction. Prohibits a financial services provider from disclosing a financial record that: (1) is related to a payment card transaction; and (2) includes protected financial information, including a firearms code used, collected, or assigned in violation of the bill's provisions. Specifies that the bill's provisions apply only to a payment card transaction that is initiated after June 30, 2024: (1) at a firearms retailer's physical location in Indiana; or (2) on an online platform if the purchaser is an Indiana consumer and the seller is a firearms retailer that: (A) has at least one physical location in Indiana; or (B) does not have at least one physical location in Indiana if the firearm purchased will be shipped: (i) to another firearms retailer's physical location in Indiana and transferred to the Indiana consumer at that location; or (ii)
(Continued next page)

Effective: July 1, 2024.

Teshka, Manning, Haggard

January 8, 2024, read first time and referred to Committee on Financial Institutions.



Digest Continued

directly to the Indiana consumer at the Indiana consumer's Indiana address. Requires the attorney general to investigate any alleged or suspected violation of the bill's provisions and, upon finding a violation, to provide written notice to any person, public or private, found to be in violation. Provides that upon receiving a written notice from the attorney general of a violation, a person has 30 calendar days to cease the violation. Requires the attorney general to seek injunctive relief in a court having jurisdiction for continued violations of the bill's provisions. Provides that if a person violates an injunction issued by a court, the attorney general shall petition the issuing court for a civil penalty not to exceed \$10,000 per violation of the injunction. Sets forth certain factors that a court must consider in determining the amount of the civil penalty. Specifies that the remedies set forth in the bill are the exclusive remedies for a violation of the bill's provisions.



Introduced

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1084

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-27.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]:

4 **Chapter 27.5. Privacy of Firearms Financial Transactions**
5 **Sec. 1. (a) This chapter applies to a payment card transaction**
6 **that is initiated after June 30, 2024:**

7 **(1) at a firearms retailer's physical location in Indiana; or**
8 **(2) through the Internet or an online platform if the purchaser**
9 **in the payment card transaction is an Indiana consumer and**
10 **the seller in the payment card transaction is a firearms**
11 **retailer that:**

12 **(A) has at least one (1) physical location in Indiana; or**
13 **(B) does not have at least one (1) physical location in**
14 **Indiana if the firearm purchased in the transaction will be**
15 **shipped:**

2024

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1 (i) to another firearms retailer's physical location in
 2 Indiana and transferred to the Indiana consumer at that
 3 location; or

4 (ii) directly to the Indiana consumer at the Indiana
 5 consumer's Indiana address.

6 (b) This chapter does not apply to a payment card transaction
 7 that is initiated at a firearms retailer's physical location outside
 8 Indiana regardless of whether the:

9 (1) purchaser in the payment card transaction is an Indiana
 10 consumer; or

11 (2) firearms retailer has at least one (1) physical location in
 12 Indiana.

13 Sec. 2. As used in this chapter, "affiliate" means any person who
 14 directly or indirectly:

15 (1) controls;

16 (2) is controlled by; or

17 (3) is under the common control of;

18 another person.

19 Sec. 3. As used in this chapter, "credit card" means any:

20 (1) card;

21 (2) plate; or

22 (3) other single credit device;

23 that may be used from time to time to obtain credit (as defined in
 24 12 CFR 1026.2(a)(14)).

25 Sec. 4. As used in this chapter, "debit card" means any:

26 (1) card;

27 (2) plate; or

28 (3) other single device;

29 that may be used from time to time to access an asset account,
 30 regardless of whether authorization for the debit is based on a
 31 signature, a personal identification number, or other means.

32 Sec. 5. As used in this chapter, "disclose", with respect to
 33 protected financial information, means to transfer, publish, or
 34 distribute the protected financial information to another person for
 35 any purpose other than to:

36 (1) process or facilitate a payment card transaction; or

37 (2) take any action related to:

38 (A) dispute processing;

39 (B) fraud management; or

40 (C) protecting the integrity of the transaction with respect
 41 to:

42 (i) illegal activity;



1 (ii) security breaches; or

2 (iii) cyber risks;

3 with respect to a payment card transaction.

4 Sec. 6. As used in this chapter, "financial institution" means any
5 bank, trust company, corporate fiduciary, savings association,
6 credit union, savings bank, bank of discount and deposit, or
7 industrial loan and investment company organized or reorganized
8 under Indiana law, the law of another state (as defined in
9 IC 28-2-17-19), or United States law.

10 Sec. 7. (a) As used in this chapter, "financial services provider"
11 means any of the following that is involved in facilitating or
12 processing a payment card transaction, as appropriate in the
13 context:

14 (1) A financial institution.

15 (2) A person engaged in money transmission in Indiana under
16 IC 28-8-4.1.

17 (3) A payment card issuer.

18 (4) A payment card network.

19 (5) A merchant acquirer.

20 (b) The term includes an:

21 (1) affiliate;

22 (2) officer;

23 (3) agent; or

24 (4) employee;

25 of a person listed in subsection (a).

26 Sec. 8. As used in this chapter, "firearm" includes the following:

27 (1) A firearm (as defined in IC 34-12-3-1).

28 (2) Ammunition for use in a firearm.

29 (3) Firearm components.

30 (4) Firearm accessories.

31 Sec. 9. As used in this chapter, "firearms code" means a
32 merchant category code approved by the International
33 Organization for Standardization specifically for firearms
34 retailers.

35 Sec. 10. As used in this chapter, "firearms retailer" means any
36 person engaged in the lawful business of selling or trading
37 firearms.

38 Sec. 11. (a) As used in this chapter, "governmental entity"
39 means any of the following:

40 (1) The state.

41 (2) A state agency (as defined in IC 1-1-15-3).

42 (3) A political subdivision (as defined in IC 36-1-2-13) or an



- 1 instrumentality of a political subdivision (as defined in
2 IC 36-1-2-13).
- 3 (b) The term includes an:
- 4 (1) official;
5 (2) agent; or
6 (3) employee;
7 of an entity listed in subsection (a).
- 8 **Sec. 12. As used in this chapter, "Indiana consumer" means a:**
9 (1) natural person whose principal residence is in Indiana; or
10 (2) person, other than a natural person, that is domiciled in
11 Indiana.
- 12 **Sec. 13. As used in this chapter, "merchant acquirer" means a**
13 **person that establishes a relationship with a merchant to enable the**
14 **processing of payment card transactions by collecting funds from**
15 **the payment card issuer in the transaction and depositing them in**
16 **the merchant's account.**
- 17 **Sec. 14. As used in this chapter, "payment card" means:**
18 (1) a credit card;
19 (2) a debit card; or
20 (3) another device that may be used to carry out debit or
21 credit transactions.
- 22 **Sec. 15. As used in this chapter, "payment card issuer" means**
23 **a:**
24 (1) lender, including a financial institution; or
25 (2) merchant;
26 **that receives applications for and issues payment cards to**
27 **consumers.**
- 28 **Sec. 16. As used in this chapter, "payment card network" means**
29 **an entity that directly, or through licensed members, processors,**
30 **or agents, provides the proprietary services, infrastructure, and**
31 **software that:**
32 (1) route information and data to conduct debit card or credit
33 card transaction authorization, clearance, and settlement; and
34 (2) a merchant or seller uses in order to accept as a form of
35 payment a brand of:
36 (A) debit card;
37 (B) credit card; or
38 (C) another device that may be used to carry out debit or
39 credit transactions.
- 40 **Sec. 17. As used in this chapter, "payment card transaction"**
41 **means a transaction in which a consumer uses a payment card to**
42 **purchase or obtain goods, services, money, or any other thing of**



1 value.

2 **Sec. 18. As used in this chapter, "person" means:**

3 (1) a natural person; or

4 (2) an organization, including a corporation, a partnership, a
5 proprietorship, an association, a cooperative, an estate, or a
6 trust.

7 **Sec. 19. As used in this chapter, "protected financial
8 information" means any record of a:**

9 (1) sale;

10 (2) purchase;

11 (3) return; or

12 (4) refund;

13 that is made or processed with a payment card and that is
14 retrieved, characterized, generated, labeled, sorted, or grouped
15 based on the assignment of a firearms code.

16 **Sec. 20. (a) Except as provided in subsection (b), or as otherwise
17 required by law, a governmental entity or any other person, public
18 or private, shall not knowingly or willfully keep or cause to be kept
19 any:**

20 (1) list, record, or registry of privately owned firearms; or

21 (2) list, record, or registry of the owners of firearms;

22 with respect to Indiana consumers.

23 **(b) Subsection (a) does not apply with respect to the following:**

24 (1) Records kept during the regular course of a criminal
25 investigation or prosecution.

26 (2) Records kept by the owner of privately owned firearms.

27 (3) Information submitted to a law enforcement agency in
28 connection with an application for a license to carry a
29 handgun under IC 35-47-2-3, subject to the limitations set
30 forth in IC 35-47-2-3(n) and IC 35-47-2-3(o).

31 **Sec. 21. In a payment card transaction, a merchant acquirer or
32 payment card network may not:**

33 (1) use; or

34 (2) require the use of;

35 a firearms code in a way that distinguishes a firearms retailer with
36 at least one (1) physical location in Indiana from general
37 merchandise retailers or sporting goods retailers.

38 **Sec. 22. (a) Except as provided in subsection (b), a financial
39 services provider may not decline or otherwise refuse to process a
40 lawful payment card transaction based solely on the assignment or
41 nonassignment of a firearms code to the payment card transaction.**

42 **(b) A financial services provider may decline or otherwise refuse**



1 to process a lawful payment card transaction involving a firearms
 2 retailer on the basis of the assignment or nonassignment of a
 3 firearms code:

4 (1) at the request of the consumer; or

5 (2) in accordance with:

6 (A) fraud controls; or

7 (B) merchant category exclusions offered by a financial
 8 services provider for the purpose of expenditure control or
 9 corporate card control;

10 applicable to the payment card involved in the payment card
 11 transaction.

12 **Sec. 23.** Except as otherwise required by law, a financial services
 13 provider may not disclose a financial record that:

14 (1) is related to a payment card transaction; and

15 (2) includes protected financial information, including a
 16 firearms code that was used, collected, or assigned in violation
 17 of this chapter.

18 **Sec. 24.** With respect to a payment card transaction, this
 19 chapter may not be construed to:

20 (1) limit the ability of a financial services provider to
 21 negotiate with responsible parties; or

22 (2) otherwise impair a financial services provider's actions;
 23 related to dispute processing, fraud management, or protecting the
 24 integrity of the payment card transaction with respect to illegal
 25 activity, security breaches, or cyber risks.

26 **Sec. 25. (a)** The attorney general shall, upon:

27 (1) receiving notice of an alleged violation of this chapter
 28 from:

29 (A) a firearms retailer:

30 (i) with at least one (1) physical location in Indiana; and

31 (ii) whose business is the subject of the alleged violation
 32 with respect to a payment card transaction; or

33 (B) an Indiana consumer involved in a payment card
 34 transaction that is the subject of the alleged violation; or

35 (2) the attorney general's own motion, if the attorney general
 36 has reasonable cause to believe that any person, public or
 37 private, has engaged in, is engaging in, or is about to engage
 38 in a violation of this chapter;

39 investigate the alleged or suspected violation. If the attorney
 40 determines that a violation has occurred, the attorney general shall
 41 provide written notice to any person, public or private, found to be
 42 in violation of this chapter. Upon receiving a written notice from



1 the attorney general under this subsection, a person has thirty (30)
2 calendar days from the date of receipt to cease the violation of this
3 chapter.

4 (b) If a person found to be in violation of this chapter fails to
5 cease the violation within the thirty (30) day period set forth in
6 subsection (a), the attorney general shall seek, in a court having
7 jurisdiction, injunctive relief against the person. If the court finds
8 that the person continues to be in violation of this chapter after the
9 thirty (30) day period set forth in subsection (a), the court shall
10 enjoin the person from continuing the activity found to be in
11 violation of this chapter.

12 (c) If an injunction is issued under subsection (b), and the
13 person subject to the injunction knowingly or willfully fails to
14 comply with the injunction within thirty (30) calendar days after
15 being served with the injunction, the attorney general shall petition
16 the issuing court for, and may recover on behalf of the state, a civil
17 penalty not to exceed ten thousand dollars (\$10,000) per violation
18 of the injunction that occurs after the thirty (30) day period
19 described in this subsection. In determining the amount of a civil
20 penalty under this subsection, the court shall consider:

21 (1) the financial resources of the person found to be in
22 violation;

23 (2) the harm or risk of harm to an Indiana consumer's rights
24 or to a firearms retailer's rights, as applicable, under:

25 (A) the Second Amendment to the Constitution of the
26 United States; or

27 (B) Article 1, Section 32 of the Constitution of the State of
28 Indiana; and

29 (3) any other factor considered relevant by the court.

30 The attorney general is entitled to recover, in addition to the civil
31 penalty under this subsection, the attorney general's investigative
32 costs and reasonable attorney's fees. However, an order assessing
33 a civil penalty under this subsection shall be stayed pending an
34 appeal of the order.

35 (d) The remedies set forth in this section are the exclusive
36 remedies for a violation of this chapter.

