

As Passed by the Senate

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Sub. S. B. No. 148

Senator Johnson

**Cosponsors: Senators Cirino, Gavarone, Huffman, S., O'Brien, Schaffer, Wilkin,
Antani, Brenner, Chavez, Hackett, Landis, Lang, McColley, Reineke, Rulli,
Schuring**

A BILL

To enact sections 1349.84, 1349.85, and 1349.86 of 1
the Revised Code relating to payment card 2
transactions involving firearms and ammunition 3
retailers and to name this act the Second 4
Amendment Financial Privacy Act. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1349.84, 1349.85, and 1349.86 of 6
the Revised Code be enacted to read as follows: 7

Sec. 1349.84. As used in sections 1349.84 to 1349.86 of 8
the Revised Code: 9

(A) "Ammunition" has the same meaning as in section 10
2305.401 of the Revised Code and includes any ammunition 11
component. 12

(B) "Assign" or "assignment" refers to a financial 13
institution's policy, process, or practice that labels, links, 14
or otherwise associates a firearms code with a merchant or a 15
payment card transaction in a manner that allows the financial 16

institution or any other entity facilitating or processing the 17
payment card transaction to identify whether a merchant is a 18
firearms retailer or whether a transaction involves the sale of 19
firearms or ammunition. 20

(C) "Customer" means any person or entity engaged in a 21
payment card transaction facilitated or processed by a financial 22
institution. 23

(D) "Financial institution" means a person or entity other 24
than a merchant involved in facilitating or processing a payment 25
card transaction, including any bank, as defined in section 26
1309.102 of the Revised Code, acquirer, payment card issuer, 27
payment card network, payment gateway, or payment card 28
processor. 29

(E) "Firearm" has the same meaning as in section 2923.11 30
of the Revised Code and includes a firearm component or 31
accessory. 32

(F) "Firearms retailer" means any person or entity that is 33
lawfully engaged, from a physical place of business in this 34
state, in selling or trading firearms, antique firearms, or 35
ammunition to be used in firearms or antique firearms. 36

(G) "Firearms code" means a merchant category code 37
approved by the international organization for standardization 38
or an equivalent successor organization and specifically 39
assigned to a firearms retailer. 40

(H) "Government entity" means the state, a political 41
subdivision of the state, or any court, agency, or 42
instrumentality of the foregoing. 43

(I) "Payment card" means a credit card, charge card, debit 44
card, or any other card that is issued to an authorized card 45

user and allows the user to purchase goods or services from a 46
merchant. 47

(J) "Payment card transaction" means any transaction in 48
which a payment card is accepted as payment. 49

Sec. 1349.85. (A) Except for those records kept during the 50
regular course of a criminal investigation and prosecution, or 51
as otherwise required by law, no government entity or official, 52
and no agent or employee of a governmental entity shall 53
knowingly keep or cause to be kept any list, record, or registry 54
of privately owned firearms or the owners of those firearms. 55

(B) No financial institution or agent of a financial 56
institution shall do either of the following: 57

(1) Require the assignment of a firearms code in a way 58
that distinguishes a firearms retailer from other retailers; 59

(2) Subject to divisions (C) and (D) of this section, 60
decline a payment card transaction involving a firearms retailer 61
based solely on the assignment of a firearms code. 62

(C) Nothing in this section prohibits a financial 63
institution from declining or otherwise refusing to process a 64
payment card transaction for any of the following reasons: 65

(1) If necessary to comply with applicable state or 66
federal law; 67

(2) If requested by the customer; 68

(3) If necessary due to fraud controls; 69

(4) For the purpose of merchant category exclusions 70
offered by a financial institution for the purpose of 71
expenditure control or corporate card control. 72

(D) Nothing in this section limits the authority of a 73
financial institution to negotiate with responsible parties or 74
otherwise impairs a financial institution's actions related to 75
any of the following: 76

(1) Dispute processing; 77

(2) Fraud risk or credit management or other controls in 78
the ordinary course of business operations; 79

(3) Protecting against illegal activities, breach, or 80
cyber risks; 81

(4) Restricting the use or availability of a firearms code 82
in this state. 83

Sec. 1349.86. (A) The attorney general shall investigate 84
reasonable allegations that a person or entity, including a 85
government entity, has violated section 1349.85 of the Revised 86
Code and, upon finding a violation, provide written notice to 87
the person or entity believed to have committed the violation. 88
The person or entity shall cease the violation within thirty 89
days after receiving notice from the attorney general under this 90
section. 91

(B) (1) If a person or entity does not cease the violation 92
within thirty days after receiving notice from the attorney 93
general under this section, the attorney general shall file an 94
action against that person or entity to seek an injunction. 95

(2) If the court finds that the person or entity violated 96
section 1349.85 of the Revised Code and has not ceased the 97
activity constituting the violation, the court shall enjoin the 98
person or entity from continuing such activity and may award any 99
other relief as the court considers appropriate. 100

(3) If a person or entity purposely fails to comply with 101
an injunction issued under division (B) (2) of this section after 102
thirty days of being served with the injunction, the attorney 103
general, upon petition to the court, shall seek to impose on 104
that person or entity a civil fine in an amount not to exceed 105
one thousand dollars per violation. In assessing such a civil 106
fine, the court shall consider factors, including the financial 107
resources of the violator and the harm or risk of harm to the 108
rights under the Second Amendment to the United States 109
Constitution and the Ohio Constitution, Article I, Section 4 110
resulting from the violation. 111

(4) Any order assessing a civil fine under division (B) (3) 112
of this section shall be stayed pending appeal of the order. 113

(C) The attorney general has exclusive authority to 114
enforce section 1349.85 of the Revised Code. The remedies set 115
forth in this section are the exclusive remedies for any 116
violation of that section. 117

(D) It shall be a defense to a proceeding initiated 118
pursuant to this section that a firearms code was required to be 119
disclosed or assigned by law. 120

Section 2. This act shall be known as the Second Amendment 121
Financial Privacy Act. 122