

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1509

5 By: Representatives Beaty Jr., Pilkington
6 By: Senator Hill
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE SECOND AMENDMENT FINANCIAL
10 PRIVACY ACT; TO PROHIBIT FINANCIAL INSTITUTIONS FROM
11 USING CERTAIN DISCRIMINATORY PRACTICES; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14
15
16 TO CREATE THE SECOND AMENDMENT FINANCIAL
17 PRIVACY ACT; AND TO PROHIBIT FINANCIAL
18 INSTITUTIONS FROM USING CERTAIN
19 DISCRIMINATORY PRACTICES.
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 23, Chapter 32, is amended to add an
24 additional subchapter to read as follows:

25 Subchapter 6 – Arkansas Second Amendment Financial Privacy Act
26

27 23-32-601. Title.

28 This subchapter shall be known and may be cited as the "Arkansas Second
29 Amendment Financial Privacy Act".
30

31 23-32-602. Definitions.

32 As used in this subchapter:

33 (1)(A) "Acquirer bank" means a member of a payment card network
34 that contracts with a merchant for the settlement of an electronic payment
35 transaction.

36 (B) "Acquirer bank" includes a bank that contracts



1 directly with a merchant or indirectly through a processor to process an
2 electronic payment transaction;

3 (2) "Ammunition" means the same as defined in 18 U.S.C. § 921,
4 as it existed on January 1, 2025;

5 (3) "Antique firearm" means the same as defined in 18 U.S.C. §
6 921, as it existed on January 1, 2025;

7 (4) "Authorization" means the process by which a merchant
8 requests approval for an electronic payment transaction from the issuer of a
9 credit card or debit card;

10 (5) "Covered entity" means an entity that establishes a
11 relationship with a retailer for the purposes of processing credit, debit, or
12 prepaid transactions;

13 (6) "Credit card" means a card, plate, coupon book, or other
14 credit device existing for the purposes of obtaining money, property, labor,
15 or services on credit;

16 (7) "Customer" means a person engaged in a payment card
17 transaction that a financial institution facilitates or processes;

18 (8) "Debit card" means a card issued by a financial institution
19 to a consumer for use in initiating an electronic fund transfer from the
20 account of the consumer at the financial institution for the purpose of
21 transferring money between accounts or obtaining money, property, labor, or
22 services;

23 (9) "Depository institution" means:

24 (A) A depository institution as defined in 12 U.S.C. §
25 1813(c)(1), as it existed on January 1, 2025; or

26 (B) An insured credit union as defined in 12 U.S.C. §
27 1752(7), as it existed on January 1, 2025;

28 (10) "Electronic payment transaction" means a transaction in
29 which a person uses a debit card, a credit card, or other payment code or
30 device issued or approved through a payment card network to debit a deposit
31 account or use a line of credit, whether or not authorization is based on a
32 signature, personal identification number, or other means;

33 (11)(A) "Financial institution" means an entity involved in
34 facilitating or processing a payment card transaction.

35 (B) "Financial institution" includes:

36 (i) An acquirer bank;

- 1 (ii) A payment card network;
- 2 (iii) A payment card issuer;
- 3 (iv) A depository institution;
- 4 (v) A trust company;
- 5 (vi) A savings bank;
- 6 (vii) A person subject to the jurisdiction of the:
- 7 (a) United States Securities and Exchange
- 8 Commission;
- 9 (b) Bank Commissioner under the Arkansas
- 10 Banking Code of 1997, chapters 45-50 of this title;
- 11 (c) Securities Commissioner under the Arkansas
- 12 Securities Act, § 23-42-101 et seq.; or
- 13 (d) Insurance Commissioner under the Arkansas
- 14 Insurance Code; or
- 15 (viii) Any other institution that:
- 16 (a) Holds and receives deposits, savings, or
- 17 share accounts;
- 18 (b) Issues certificates of deposit;
- 19 (c) Provides to its customers any deposit
- 20 accounts subject to withdrawal by check, instrument, order, or electronic
- 21 means to effect third-party payments;
- 22 (d) Provides insurance services; or
- 23 (e) Provides investment services;
- 24 (12)(A) "Firearm" means the same as defined in 18 U.S.C. § 921,
- 25 as it existed on January 1, 2025.
- 26 (B) "Firearm" includes:
- 27 (i) An antique firearm;
- 28 (ii) A rifle; and
- 29 (iii) A shotgun;
- 30 (13) "Firearms retailer" means a person that is:
- 31 (A) Physically located in Arkansas; and
- 32 (B) Engaged in the lawful business of selling or trading
- 33 firearms, firearm accessories or firearm components, or ammunition;
- 34 (14)(A) "Issuer" means a person issuing a credit card or a debit
- 35 card.
- 36 (B) "Issuer" includes an issuer's agent;

1 (15)(A) "Merchant" means a person that accepts credit cards or
2 debit cards from a customer for the purchase of goods or services.

3 (B) "Merchant" includes a firearms retailer that accepts a
4 credit card or a debit card for lawful purchase of a firearm, firearm
5 accessories or firearm components, or ammunition;

6 (16) "Merchant category code" means a code assigned to a
7 retailer based on the types of goods and services offered to a retailer's
8 customers;

9 (17)(A) "Payment card network" means an entity that directly or
10 through a member, processor, or agent provides proprietary services,
11 infrastructure, software, or hardware that routes information used to
12 authorize, clear, and settle credit, debit, or prepaid transactions.

13 (B) "Payment card network" does not include a financial
14 institution that settles a credit, debit, or prepaid transaction directly
15 with a retailer on behalf of a customer;

16 (18) "Person" means an individual, a corporation, an
17 organization, or other legal entity;

18 (19) "Processing fee" means a fee established, charged, or
19 received by a payment card network for the purpose of compensating the issuer
20 for its involvement in an electronic payment transaction;

21 (20) "Rifle" means the same as defined in 18 U.S.C. § 921, as it
22 existed on January 1, 2025;

23 (21) "Savings bank" means a savings association or federal
24 savings association as defined in 12 U.S.C. § 1462, as it existed on January
25 1, 2025;

26 (22) "Shotgun" means the same as defined in 18 U.S.C. § 921, as
27 it existed on January 1, 2025; and

28 (23) "Trust company" means:

29 (A) A national bank engaged in activities in a fiduciary
30 capacity under 12 U.S.C. § 92a and 12 C.F.R. Part 9;

31 (B) A trust company as defined in § 23-51-102; or

32 (C) An interstate bank that is authorized under the
33 Arkansas Banking Code of 1997, chapters 45-50 of this title, to exercise the
34 powers of a trust company in this state.

35
36 23-32-603. Prohibited conduct.

1 (a)(1) A payment card network shall not require the use of a merchant
2 category code that distinguishes a firearms retailer from other retailers.

3 (2) Subdivision (a)(1) of this section does not apply to an
4 electronic payment transaction at a retailer outside of this state.

5 (b) A covered entity or its agent shall not assign a firearms retailer
6 a merchant category code that distinguishes the firearms retailer from other
7 retailers, including without limitation merchant category code 5723, which
8 was approved in September 2022 by the International Organization for
9 Standardization to firearms retailers.

10 (c) A merchant shall not assign merchant category code 5723, which was
11 approved in September 2022 by the International Organization for
12 Standardization, to a purchase of firearms, firearm accessories or firearm
13 components, or ammunition.

14 (d) This section does not limit the ability of a financial institution
15 or payment card network to negotiate with a responsible party or otherwise
16 impair the financial institution's or payment card network's actions related
17 to:

18 (1) Dispute processing;

19 (2) Fraud management;

20 (3) Protecting transaction integrity from concerns related to
21 illegal activities, a data breach, or cyberattack risks;

22 (4) Management of a loyalty or rewards program related to an
23 electronic payment transaction; or

24 (5) As required by law.

25 (e)(1) Except as provided in subdivision (e)(2) of this section; a
26 person, unit of government, or governmental organization shall not knowingly
27 keep or cause to be kept a list, record, or registry of:

28 (A) A privately owned firearm; or

29 (B) An owner of a privately owned firearm.

30 (2) A person, unit of government, or governmental organization
31 may keep or cause to be kept a list, record, or registry of privately owned
32 firearms or owners of privately owned firearms for:

33 (A) Records kept during the regular course of a criminal
34 investigation and prosecution;

35 (B) Dispute processing;

36 (C) Fraud management;

1 (D) Security breaches;

2 (E) Cyberattacks; or

3 (F) As required by law.

4 (f) This section does not:

5 (1) Prevent an owner or an owner's representative from
 6 maintaining a list of the owner's firearms; or

7 (2) Prohibit a law enforcement agency from maintaining a list,
 8 registry, or record of firearms that have been stolen or reported stolen.

9 (g) It shall be unlawful to limit an issuer, a payment card network, a
 10 financial institution, or a covered entity from receiving or charging a
 11 merchant a processing fee for an electronic payment transaction.

12
 13 23-32-604. Enforcement.

14 (a) The Attorney General may enforce and investigate alleged
 15 violations of this subchapter and, upon finding a violation, shall provide
 16 written notice to a person believed to be in violation of this subchapter.

17 (b) The Attorney General may be petitioned to investigate an alleged
 18 violation of this subchapter by:

19 (1) A firearms retailer whose business was the subject of an
 20 alleged violation of this subchapter;

21 (2) A customer who transacted business at a firearms retailer
 22 whose business was the subject of an alleged violation of this subchapter; or

23 (3) A person whose ownership of firearms is the subject of an
 24 alleged violation of this subchapter.

25 (c)(1) Upon finding a violation of this subchapter, the Attorney
 26 General shall provide written notice to a person believed to be in violation
 27 of this subchapter.

28 (2) The written notice required under subdivision (c)(1) of this
 29 section shall be made to the person believed to be in violation of this
 30 subchapter or a registered agent of the person within forty-five (45) days of
 31 the finding of the violation and contain the following:

32 (A) Identify the evidence to be relied upon in making a
 33 determination of a violation of this subchapter;

34 (B) Notice that the person believed to be in violation of
 35 this subchapter has thirty (30) calendar days following the receipt of the
 36 written notice to demonstrate that the person is not in violation of this

1 subchapter; and

2 (C) Action to be taken by the Attorney General upon making
3 a determination of a violation of this subchapter.

4 (3) A covered entity shall not be compelled to produce or
5 disclose any data or information deemed confidential, privileged, or
6 otherwise protected from disclosure by state or federal law.

7 (d) Upon receipt of the written notice under subdivision (c)(1) of
8 this section, a person has sixty (60) calendar days to cease the violations
9 of this subchapter.

10 (e)(1) If a person under subsection (d) of this section fails to cease
11 the violations of this subchapter, the Attorney General may request an
12 injunction against the person alleged to be in violation of this subchapter,
13 which a court may order, in addition to any other available relief, as the
14 court may consider appropriate.

15 (2) If a person knowingly fails to comply with an injunction
16 under subdivision (e)(1) of this section, the Attorney General may petition
17 the court to recover a civil penalty in a sum not to exceed one thousand
18 dollars (\$1,000) for each violation of the injunction.

19 (3) An order assessing a penalty for a violation of this
20 subchapter shall be stayed pending appeal of the order.

21 (4) The remedies under subdivisions (e)(1) and (2) of this
22 section are exclusive remedies for a violation of this subchapter.

23 (f)(1) If the Attorney General provides written notice under
24 subdivision (c)(1) of this section based on the petition of a firearms
25 retailer or a customer of a firearms retailer, then the petitioner shall
26 consent to the disclosure of any financial information held by a covered
27 entity to the Attorney General, whether or not the information is
28 confidential or proprietary to demonstrate that the covered entity is not in
29 violation of this subchapter.

30 (2) If the firearms retailer or customer of a firearms retailer
31 does not consent to the disclosure of financial information under subdivision
32 (f)(1) of this section, the Attorney General shall not pursue the petition to
33 investigate the violation of this subchapter.

34 (g) It is a defense to a civil proceeding initiated under this section
35 that a person made a good faith determination that the person's action was
36 required by applicable law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

(h) This section does not create a private right of action.