

The House Committee on Banks and Banking offers the following substitute to HB 1018:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 10 and 16 of the Official Code of Georgia Annotated, relating to commerce
2 and trade and crimes and offenses, respectively, so as to provide for protections of persons
3 who own, purchase, or engage in the business of selling firearms; to prohibit financial
4 institutions from requiring the use of a firearms code that distinguishes firearms retailers
5 from other retailers; to prohibit discrimination against firearms retailers by financial
6 institutions through the use of a firearms code; to prohibit the disclosure of certain financial
7 records by financial institutions; to provide for petitions to the Attorney General to
8 investigate alleged violations; to prohibit persons or government entities from keeping
9 registries of firearms or owners of firearms; to provide for construction; to provide
10 definitions; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
14 amended by revising Part 7 of Article 15 of Chapter 1, relating to the "Georgia Firearms
15 Industry Nondiscrimination Act," as follows:

H. B. 1018 (SUB)

"Part 7

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

10-1-439.

This part shall be known and may be cited as the 'Georgia Firearms Industry Nondiscrimination Act.'

10-1-439.1.

As used in this part, the term:

(1) 'Disclose a financial record' means transfer, publish, or distribute protected financial information to another person for any purpose other than to:

(A) Process or facilitate a payment card transaction; or

(B) Take any actions related to dispute processing, fraud management, or protecting transaction integrity from concerns related to illegal activities or cyber risks.

(2) 'Financial institution' means any bank, trust company, building and loan association, credit union as defined in Code Section 7-1-4, merchant acquirer limited purpose bank as defined in Code Section 7-9-2, federally chartered banking institution that accepts state deposits, or entity involved in facilitating or processing payment card transactions, including, but not limited to, an acquirer, a payment card network, or a payment card issuer.

(3) 'Financial services' means any service or product offered to the consumer or business market by a ~~bank, trust company, building and loan association, credit union as defined by Code Section 7-1-4, any merchant acquirer limited purpose bank as defined in paragraph (7) of Code Section 7-9-2, or a federally chartered banking institution that accepts state deposits~~ financial institution.

(4) 'Firearms code' means the Merchant Category Code 5723 approved by the International Organization for Standardization or any other merchant category code or indicator that a financial institution assigns to a merchant or to a payment card transaction

41 that identifies whether the merchant is a firearms retailer or whether the payment card
42 transaction involves the purchase of a firearm or ammunition.

43 (5) 'Firearms retailer' means any person physically located in this state that is engaged
44 in the lawful business of selling or trading firearms or ammunition.

45 (6) 'Payment card' shall have the same meaning as provided in Code Section 10-15-1.

46 (7)(2) 'Person' means one or more individuals, partnerships, associations, limited liability
47 companies, corporations, unincorporated organizations, mutual companies, joint stock
48 companies, trusts, agents, legal representatives, trustees, trustees in bankruptcy, receivers,
49 labor organizations, public bodies, and public corporations and the State of Georgia and
50 all political subdivisions and agencies thereof or other legal or business entities. Such
51 term shall include federally chartered banking institutions that accept state deposits.

52 (8) 'Protected financial information' means any record of a sale, purchase, return, or
53 refund involving a payment card that is retrieved, characterized, generated, labeled,
54 sorted, or grouped based on the assignment of a firearms code.

55 (3)(9) 'Trade association' means any corporation, unincorporated association, federation,
56 business league, or professional or business organization not organized or operated for
57 profit and no part of the net earnings of which inures to the benefit of any private
58 shareholder or individual; that is an organization described in Section 501(c)(6) of
59 Title 26 of the United States Code and exempt from tax under Section 501(a) of such
60 title; and two or more members of which are manufacturers or sellers of a qualified
61 product as defined by Section 7903(4) of Title 15 of the United States Code.

62 10-1-439.2.

63 (a) Unless otherwise precluded by law, regulation, or membership eligibility, it shall be
64 an unlawful discriminatory practice for any person to refuse to provide financial services
65 of any kind to, to refrain from continuing to provide existing financial services to, to
66 terminate existing financial services with, or to otherwise discriminate in the provision of

67 financial services against a person or trade association solely because such person or trade
68 association is engaged in the lawful commerce of firearms or ammunition products and is
69 licensed pursuant to Chapter 44 of Title 18 of the United States Code or is a trade
70 association.

71 (b) It shall be an unlawful discriminatory practice for any financial institution to require
72 the usage of a firearms code in a way that distinguishes a firearms retailer that is physically
73 located in this state from general merchandise retailers or sporting goods retailers, unless
74 such required usage of a firearms code is based on a good faith conclusion that such action
75 is required by applicable law or regulation.

76 (c) It shall be unlawful for any financial institution to discriminate against a firearms
77 retailer by declining a lawful payment card transaction based solely on the assignment or
78 nonassignment of a firearms code; provided, however, that a financial institution may
79 decline or otherwise refuse to process a payment card transaction on the basis of a firearms
80 code if such action is requested by the customer or is the result of fraud prevention
81 procedures or merchant category exclusions offered by the financial institution for the
82 purpose of expenditure control or corporate payment card control.

83 (d) Except as otherwise required by law or regulation, a financial institution shall not
84 disclose a financial record, including a firearms code that was collected in violation of
85 subsection (b) of this Code section, unless such disclosure is based on a good faith
86 conclusion that it was required by applicable law or regulation.

87 (e) Nothing in this Code section shall limit the ability of a financial institution to negotiate
88 with responsible parties or otherwise impair the financial institution's actions related to
89 dispute processing, fraud management, or protecting transaction integrity from concerns
90 related to illegal activities or cyber risks.

91 10-1-439.3.

92 (a) Whenever the Attorney General has reason to believe that any person is engaging, has
93 engaged, or is about to engage in any act or practice declared unlawful by this part, the
94 Attorney General shall, upon written request made pursuant to subsection (b) of this Code
95 section or by his or her own initiative, investigate and, upon finding a probable violation
96 of this part, bring an action in the name of the state against such person to:

97 (1) Obtain a declaratory judgment that the act or practice violates the provisions of this
98 part;

99 (2) Enjoin any act or practice that violates the provisions of this part by issuance of a
100 temporary restraining order or preliminary or permanent injunction, without bond, upon
101 the giving of appropriate notice; and

102 (3) Recover civil penalties of up to \$10,000.00 per violation of this part or any
103 injunction, judgment, or consent order issued or entered into under the provisions of this
104 chapter and reasonable expenses, investigative costs, and attorney's fees.

105 Provided, however, that no action shall be brought by the Attorney General under this
106 subsection until after the person who is alleged to have violated this part has received
107 written notice from the Attorney General of the alleged violation and failed to cease the
108 activity that is alleged to be a violation of this part within 30 days of receiving such notice.

109 (b) Any person who is the subject of an action believed to be in violation of this part may
110 request, in writing, that the Attorney General investigate the alleged violation pursuant to
111 subsection (a) of this Code section.

112 (c) The remedies set forth in this Code section shall be the exclusive remedies for
113 violations of this part.

114 10-1-439.4.

115 The provisions of this part shall not apply to any bank, trust company, credit union, or
116 merchant acquirer limited purpose bank that is chartered under the laws of this state or any

117 other state to the extent that federal law precludes or preempts or has been determined to
118 preclude or preempt the application of the provisions of this part to any federally chartered
119 bank, trust company, credit union, or merchant acquirer limited purpose bank."

120

SECTION 2.

121 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
122 amended in Code Section 16-11-129, relating to weapons carry license, gun safety
123 information, temporary renewal permit, mandamus, and verification of license, by revising
124 subsection (k) as follows:

125 "(k) **Data base prohibition.**

126 (1) As used in this subsection, the term:

127 (A) 'Government entity' means an office, agency, authority, department, commission,
128 board, body, division, instrumentality, or institution of the state or of any county,
129 municipal corporation, or consolidated government within this state.

130 (B) 'Multijurisdictional data base' means a data base of information shared between or
131 among more than one government entity or between or among a government entity and
132 any office, agency, authority, department, commission, board, body, division,
133 instrumentality, or institution of the United States or of any other state.

134 (2) No ~~A~~ person or government entity shall knowingly and willfully:

135 (A) ~~not create~~ Create or maintain a multijurisdictional data base of information
136 regarding persons issued or who have applied for weapons carry licenses; or

137 (B) Keep, or cause to be kept, any list, record, or registry of privately owned firearms
138 or owners of such firearms; provided, however, that nothing in this subparagraph shall
139 prohibit a person from keeping, or causing to be kept, any list, record, or registry of
140 firearms owned by such person."

141

SECTION 3.

142 All laws and parts of laws in conflict with this Act are repealed.