Prepared by the Legislative Council staff for the House Industry, Business and Labor Committee

February 15, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1487

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code, relating to financial entities use of merchant codes to track firearm and ammunition-related purchases; to provide a penalty; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 6 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Customer" means any person engaged in a payment card transaction facilitated or processed by a financial entity.

2. "Disclosure" means the transfer, publication, or distribution of protected financial information to another person for any purpose other than the processing or facilitating of a payment card transaction.

3. "Financial entity" means a person involved in facilitating or processing a payment card transaction, including a bank, acquirer, payment card network, or payment card issuer.

4. "Firearms code" means a merchant category code approved by the international standards organization.

5. "Government entity" means any state board, commission, agency, bureau, or department, or any political subdivision of the state.

6. "Protected financial information" means any record of sale, purchase, return, or refund involving a payment card which is retrieved, characterized, generated, labeled, sorted, or grouped based on the assignments of a firearms code.

Merchant codes - Limitations.

1. Except for those records kept during the regular course of a criminal investigation and prosecution or merchant marketing campaigns, a government entity or any official, agent, or employee of the state, or any other person, may not willfully keep or cause to be kept any list, record, or registry of privately owned firearms or firearm owners.

2. A financial entity or its agent may not require any merchant located in this state to use a firearm or ammunition merchant category code or any code

that differentiates the sale of firearms or ammunition from other sporting goods or general merchandise.

3. A financial entity may not use a firearms code to engage in the following discriminatory conduct:

   a. Declining a lawful payment card transaction based solely on the assignment of a firearms code; or

   b. Taking any action against a customer which is intended to suppress or track lawful commerce involving firearms or ammunition.

Investigation of financial entities.

1. The attorney general shall investigate alleged violations under this chapter and shall provide a written notice to any person in violation. A person that has received a written notice from the attorney general must cease the use of a firearms code within thirty calendar days.

2. The attorney general may pursue, and a court may order, an injunction against any person if the person fails to cease the use of a firearms code after the expiration of thirty days from receipt of written notice.

3. If the attorney general finds a financial entity willfully violated this chapter, the attorney general shall assess a fee of five thousand dollars for the first violation and ten thousand dollars for each additional violation. Fees collected under this section must be deposited into the merchant code violation fund. A financial entity desiring to appeal the attorney general's finding of a violation under this chapter may appeal the finding in accordance with chapter 28-32.

4. Information disclosed to a federal government entity is not a defense to any civil action filed under this section, unless the disclosure or action is required by federal law or regulation.

Merchant code violation fund - Continuing appropriation.

There is created in the state treasury the merchant code violation fund. The fund consists of all money deposited in the fund under this chapter. Moneys in the fund are appropriated to the attorney general on a continuing basis for disbursement to individuals harmed by a violation of this chapter subject to approval by the attorney general. An individual harmed by a violation under this chapter may submit a request to the attorney general for a disbursement of five thousand dollars from the fund, and the attorney general shall review all requests for disbursement submitted under this chapter."

Renumber accordingly