

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1487

Introduced by

Representatives Koppelman, Hauck, Heinert, Kasper, Louser, Novak, Tveit

Senators Larsen, Magrum, Wobbema

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

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

7 **Definitions.**

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

- 9 1. "Customer" means any person engaged in a payment card transaction facilitated or
10 processed by a financial entity.
- 11 2. "Disclosure" means the transfer, publication, or distribution of protected financial
12 information to another person for any purpose other than the processing or facilitating
13 of a payment card transaction.
- 14 3. "Financial entity" means a person involved in facilitating or processing a payment card
15 transaction, including a bank, acquirer, payment card network, or payment card issuer.
- 16 4. "Firearms code" means a merchant category code approved by the international
17 standards organization.
- 18 5. "Government entity" means any state board, commission, agency, bureau, or
19 department, or any political subdivision of the state.
- 20 6. "Protected financial information" means any record of sale, purchase, return, or refund
21 involving a payment card which is retrieved, characterized, generated, labeled, sorted,
22 or grouped based on the assignments of a firearms code.

1 **Merchant codes - Limitations.**

- 2 1. Except for those records kept during the regular course of a criminal investigation and
3 prosecution or merchant marketing campaigns, a government entity or any official,
4 agent, or employee of the state, or any other person, may not willfully keep or cause to
5 be kept any list, record, or registry of privately owned firearms or firearm owners.
- 6 2. A financial entity or its agent may not require any merchant located in this state to use
7 a firearm or ammunition merchant category code or any code that differentiates the
8 sale of firearms or ammunition from other sporting goods or general merchandise.
- 9 3. A financial entity may not use a firearms code to engage in the following discriminatory
10 conduct:
- 11 a. Declining a lawful payment card transaction based solely on the assignment of a
12 firearms code; or
- 13 b. Taking any action against a customer which is intended to suppress or track
14 lawful commerce involving firearms or ammunition.

15 **Investigation of financial entities.**

- 16 1. The attorney general shall investigate alleged violations under this chapter and shall
17 provide a written notice to any person in violation. A person that has received a written
18 notice from the attorney general must cease the use of a firearms code within thirty
19 calendar days.
- 20 2. The attorney general may pursue, and a court may order, an injunction against any
21 person if the person fails to cease the use of a firearms code after the expiration of
22 thirty days from receipt of written notice.
- 23 3. If the attorney general finds a financial entity willfully violated this chapter, the attorney
24 general shall assess a fee of five thousand dollars for the first violation and ten
25 thousand dollars for each additional violation. Fees collected under this section must
26 be deposited into the merchant code violation fund. A financial entity desiring to appeal
27 the attorney general's finding of a violation under this chapter may appeal the finding
28 in accordance with chapter 28-32.
- 29 4. Information disclosed to a federal government entity is not a defense to any civil action
30 filed under this section, unless the disclosure or action is required by federal law or
31 regulation.

1 **Merchant code violation fund - Continuing appropriation.**

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