

HB 1487

Rep. Ben Koppelman- Testimony

Madame Chairman and Members of the Committee,

Thank You for the opportunity to introduce HB1487 to you today.

I introduced this bill with the intent of stopping credit card companies and their affiliates from tracking purchases from gun retailers with a unique Merchant Category Code (MCC).

In early September, the AG's of California and New York sent a letter to Visa, Mastercard, and American Express suggesting that the three credit card giants should begin tracking gun sales and flagging suspicious purchases to law enforcement. The two AGs wrote:

“If tracking MCC's could stop just one mass shooting or derail one gun trafficker aiming to flood the streets with guns, the change would be justified.”

The International Organization for Standardization (ISO) indicated that they intended to create a unique MCC code for gun retailers which would provide a mechanism to single out and track purchases at gun retailers. Although individual items purchased at a gun retailer would not be singled out, the size and frequency of purchases from such a store would be analyzed to try and predict the likelihood of gun violence or illegal behavior.

After the ISO decision to create the unique MCC code, all three of the credit card giants said that they planned to implement the international standards.

Twenty- Four state attorneys general signed a letter to the big three credit card companies in protest of the proposed changes, questioning the legality of such a breach of the right of privacy.

Recently, Visa CEO, Al Kelly said in an interview that the new merchant codes aren't needed and won't be useful in flagging suspicious purchases as anti-gun activists claimed. He said:

“I don't think the code was necessary, but it doesn't matter; the code is in place. It's now an international standard and we adopt international standards.”

When asked about the letter from two dozen attorneys general, he went on to say:

“I've heard from everybody. I don't think there's a senator or member of the house or attorney general in the United States that I haven't heard from. I'm telling them that we will follow the law.”

Thus, several states are now considering laws to prohibit such behavior by credit card companies, their affiliated financial institutions, and retailers, with more efforts expected to come. Now is the time to pass a law in North Dakota to prohibit such an invasion of privacy and an assault on the Second Amendment.

In fact, recently, bills like this are having an impact on the decisions of the large national credit card giants. Earlier this month, they announced a delay in implementation of the use of the codes that would be assigned to firearms retailers, proving that we need bills like this to make that pause permanent.

Since shortly after the hearing in the House, I have been working with individuals that represent the banking and credit card industry as well as representatives from the National Rifle Association to strike a

balance in the provisions of this bill as well as ensure that the language of this bill is workable.

After the bill passed the House, I noticed that the AG had prepared a fiscal note for the House version of the bill. After reviewing the fiscal note of nearly a million dollars, I understood that the AG was assuming that there would be many claims of wrongdoing on the part of financial entities, and thus predicted that they would need two additional investigators as well as one additional attorney.

After speaking with the individuals representing the financial institutions as well as the NRA, they all concluded that once this bill becomes law, that there would be very few claims of such violations, especially once everyone becomes aware of it. I agree with the assessment that claims would likely be rare, and after speaking with the AG and his fiscal analyst, I think that they now understand those assumptions. The meeting also gave me ideas of how I could make changes to the bill language to ensure it is revenue neutral.

I have handed out an amendment that I would respectfully ask the committee to adopt. It has the most recent additions to the bill language which I believe strikes the balance that everyone can live with. I think it also addresses some of the concerns of the AG. I will explain the amendment section by section.

Madame Chairman and members of the committee, I request that you attach the amendment to this bill and then give this bill a Do-Pass recommendation. I would be happy to attempt to answer any questions that you may have.