

CHAPTER 14

(HB 357)

AN ACT relating to firearms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Ammunition" has the same meaning as in 18 U.S.C. sec. 921(a)(17)(A), as amended;*
- (b) *"Covered entity" means any entity that establishes a relationship with a retailer for the purposes of processing credit, debit, or prepaid transactions;*
- (c) *"Firearm" means any of the following as defined in 18 U.S.C. sec. 921, as amended:*
 - 1. *A "firearm";*
 - 2. *A "shotgun";*
 - 3. *A "rifle"; and*
 - 4. *An "antique firearm";*
- (d) *"Firearms retailer" means a person or entity that is:*
 - 1. *Physically located in Kentucky; and*
 - 2. *Engaged in the lawful business of selling or trading firearms or ammunition;*
- (e) *"Merchant category code" means a code assigned to a retailer based on the types of goods and services offered to a retailer's customers; and*
- (f) *"Payment card network":*
 - 1. *Means any entity that, directly or through a member, processor, or agent, provides proprietary services, infrastructure, software, or hardware that routes information used to authorize, clear, and settle credit, debit, or prepaid transactions; and*
 - 2. *Does not include a financial institution that settles a credit, debit, or prepaid transaction directly with a retailer on behalf of a consumer.*

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

(3) *A covered entity or its agent shall not assign a firearms retailer any merchant category code that distinguishes the firearms retailer from other retailers, including the assigning of merchant category code 5723, approved in September 2022 by the International Organization for Standardization, to firearms retailers.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section, "firearm" has the same meaning as in Section 1 of this Act.*

(2) *No person, unit of government, or governmental organization shall, during a period of disaster or emergency as specified in KRS Chapter 39A or at any other time, knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of the firearms, except for those records kept during the regular course of a criminal investigation and prosecution or as otherwise required by law.*

(3) *Nothing in this section shall prevent an owner or an owner's representative from maintaining a list of the owner's firearms.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section, the following have the same meaning as in Section 1 of this Act:*

- (a) *"Firearm"; and*
- (b) *"Firearms retailer."*
- (2) (a) *The Attorney General shall have the sole authority to enforce, and shall investigate, any alleged violation of Section 1 or 2 of this Act.*
- (b) *The following may petition the Attorney General to investigate an alleged violation under paragraph (a) of this subsection:*
 - 1. *A firearms retailer, or a customer who made a transaction at a firearms retailer, whose business is the subject of any alleged violation of Section 1 of this Act; and*
 - 2. *A person whose firearms ownership is the subject of any alleged violation of Section 2 of this Act.*
- (3) (a) 1. *Upon finding a violation of Section 1 or 2 of this Act, the Attorney General shall provide written notice of the finding to the violating person, public or private.*
- 2. *Written notice to a commercial entity under subparagraph 1. of this paragraph shall be made to the entity's registered agent.*
- (b) *Within thirty (30) days of receiving a written notice under paragraph (a) of this subsection, the person shall cease any violation of Section 1 or 2 of this Act.*
- (4) (a) *The Attorney General shall pursue, in a court of competent jurisdiction, an injunction against any person, public or private, that fails to comply with subsection (3)(b) of this section.*
- (b) *If the court finds that a person continues to be in violation of Section 1 or 2 of this Act, the court shall issue an injunction enjoining the person from continuing the violation.*
- (c) *Within thirty (30) days of being served with an injunction issued under paragraph (b) of this subsection, the person shall cease any violation of Section 1 or 2 of this Act.*
- (d) 1. *If a person knowingly and willfully fails to comply with paragraph (c) of this subsection, the Attorney General shall petition the court to recover on behalf of the state:*
 - a. *A civil penalty not to exceed ten thousand dollars (\$10,000) per violation of paragraph (c) of this subsection; and*
 - b. *The reasonable costs of investigation and litigation.*
- 2. *In assessing a civil penalty under subparagraph 1.a. of this paragraph, the court shall consider, but not be limited to, the following factors:*
 - a. *The financial resources of the violator; and*
 - b. *The harm or risk of harm to rights to keep and bear arms under:*
 - i. *The Second Amendment of the United States Constitution; and*
 - ii. *Section 1 of the Constitution of Kentucky.*
- 3. *Any order assessing one (1) or more penalties under subparagraph 1. of this paragraph shall be stayed pending appeal of the order.*
- (5) *It shall be a defense to any alleged violation of Section 1 or 2 of this Act that the person made a good-faith determination that the person's action was required by law.*
- (6) *The remedies set forth in this section shall be the exclusive remedies for any violation of Section 1 or 2 of this Act.*

➔Section 4. This Act may be cited as the Second Amendment Privacy Act.

Became law without Governor's signature March 27, 2024.