

House Study Bill 671 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON LUNDGREN)

A BILL FOR

1 An Act relating to government records of firearms, and payment
2 card transactions involving firearms and ammunition, and
3 providing civil penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 554H.1 Definitions.

2 1. "*Ammunition*" means the same as defined in section 683.1.

3 2. "*Assign*" or "*assignment*" means a financial institution's
4 policy, process, or practice that labels, links, or otherwise
5 associates a firearms code with a merchant or a payment card
6 transaction in a manner that allows the financial institution,
7 or other entity facilitating or processing the payment card
8 transaction, to identify whether a merchant is a firearms
9 retailer or whether a transaction involves the sale of firearms
10 or ammunition.

11 3. "*Customer*" means a person engaged in a payment
12 card transaction facilitated or processed by a financial
13 institution.

14 4. "*Financial institution*" means a person other than a
15 merchant involved in facilitating or processing a payment card
16 transaction, including but not limited to any bank incorporated
17 under the provisions of any state or federal law, an acquirer,
18 a payment card issuer, a payment card network, a payment
19 gateway, or a payment card processor.

20 5. "*Firearm*" means any weapon that is capable of expelling,
21 designed to expel, or that may readily be converted to expel
22 ammunition, and includes a firearm component or accessory.

23 6. "*Firearms code*" means a merchant category code approved
24 by the international organization for standardization that is
25 specifically for firearms retailers and that is assigned to a
26 retailer by the retailer's acquirer.

27 7. "*Firearms retailer*" means a person physically located
28 within the state who engages in the lawful selling or trading
29 of firearms or ammunition.

30 8. "*Government entity*" means the state, any political
31 subdivision of the state, or any court, agency, or
32 instrumentality of the state. "*Government entity*" includes a
33 government official or an agent or employee of a government
34 entity.

35 9. a. "*Payment card*" means any card that is issued pursuant

1 to an agreement or arrangement that provides for all of the
2 following:

3 (1) One or more issuers of the payment card.

4 (2) A network of persons unrelated to each other and to the
5 issuer who agree to accept a payment card as payment.

6 (3) Standards and mechanisms for settling the transactions
7 between the merchandise-acquiring person and the merchant that
8 agrees to accept the payment card as payment.

9 *b. "Payment card" includes credit cards, debit cards,*
10 *stored-value cards including gift cards, and payment through*
11 *any distinctive marks of a payment card including a credit card*
12 *number. The acceptance as payment of any account number or*
13 *other indicia associated with a payment card shall be treated*
14 *in the same manner as accepting the payment card as payment.*

15 10. *"Payment card transaction" means any transaction in*
16 *which a payment card is accepted as payment.*

17 Sec. 2. NEW SECTION. 554H.2 **Government entities — firearm**
18 **registry or record.**

19 Except for records kept during the regular course of a
20 criminal investigation or criminal prosecution, or as otherwise
21 required by law, a government entity shall not knowingly keep
22 or cause to be kept a record or registry of privately owned
23 firearms or of the owners of privately owned firearms.

24 Sec. 3. NEW SECTION. 554H.3 **Financial institutions.**

25 1. A financial institution or agent of a financial
26 institution shall not do any of the following:

27 *a. Require the use of a firearms code in a manner that*
28 *distinguishes a firearms retailer from other retailers.*

29 *b. Subject to subsection 2, decline a payment card*
30 *transaction involving a firearms retailer based solely on*
31 *the acquirer's assignment of a firearms code to the firearms*
32 *retailer.*

33 2. This section shall not be construed to prohibit a
34 financial institution from declining or otherwise refusing to
35 process a payment card transaction for any of the following

1 reasons:

2 *a.* If necessary to comply with applicable state or federal
3 laws.

4 *b.* If requested by a customer.

5 *c.* If necessary due to fraud controls.

6 *d.* For purposes of merchant category exclusions offered by
7 a financial institution for expenditure control or corporate
8 card control.

9 3. This section shall not be construed to limit the
10 authority of a financial institution to negotiate with
11 responsible parties, or to otherwise impair a financial
12 institution's actions related to dispute processing, fraud
13 management, protection from illegal activities, breach, cyber
14 risks, or from taking any action that restricts the use or
15 availability of the firearms code in the state.

16 Sec. 4. NEW SECTION. 554H.4 **Enforcement — penalties.**

17 1. The attorney general shall investigate reasonable
18 alleged violations of this chapter. If the attorney general
19 has reasonable belief that a person is in violation of this
20 chapter, the attorney general shall provide written notice to
21 the person determined to have committed the violation.

22 2. Upon receipt of notice of a violation under subsection
23 1, the person shall have ninety calendar days to cease the
24 violation.

25 3. If the violation persists after the expiration of the
26 ninety-day period under subsection 2, the attorney general has
27 the sole authority to bring civil action in district court to
28 enjoin further violations by a person found to be in violation
29 of this chapter, in addition to other remedies permitted by
30 law.

31 4. If a person knowingly or willfully fails to comply
32 with an injunction issued under subsection 3, after thirty
33 calendar days of the date the person is served with the
34 injunction, the attorney general may petition the district
35 court to impose civil penalties in an amount not to exceed one

1 thousand dollars per violation, taking into consideration the
2 financial resources of the violator and the harm or risk of
3 harm to the violator's rights under the second amendment to the
4 Constitution of the United States and Article I, section 1A,
5 of the Constitution of the State of Iowa resulting from the
6 violation.

7 5. It shall be a defense to a proceeding initiated pursuant
8 to this section that a firearms code was required to be
9 disclosed or assigned by law.

10

EXPLANATION

11

The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

12

13 This bill relates to records and payment card transactions
14 of firearms and ammunition.

15 Under the bill, except for records kept during the regular
16 course of a criminal investigation or criminal prosecution, or
17 as otherwise required by law, a government entity shall not
18 knowingly keep or cause to be kept a record or registry of
19 privately owned firearms, or of the owners of privately owned
20 firearms. "Government entity" and "firearm" are defined in the
21 bill.

22 The bill prohibits a financial institution, or an agent of
23 a financial institution, from requiring the use of a firearms
24 code in a way that distinguishes a firearms retailer from other
25 retailers. "Financial institution", "firearms code", and
26 "firearms retailer" are defined in the bill. The bill also
27 prohibits a financial institution from declining a payment
28 card transaction involving a firearms retailer based on the
29 assignment of a firearms code. "Payment card transaction"
30 and "assignment" are defined in the bill. The bill does not
31 prohibit a financial institution from declining or refusing to
32 process a payment card transaction if necessary to comply with
33 applicable state or federal laws, if requested by a customer,
34 if necessary due to fraud controls, or for purposes of merchant
35 category exclusions offered by a financial institution for

1 purposes of expenditure control or corporate card control. The
2 bill does not limit or impair the authority of a financial
3 institution to negotiate with responsible parties or a
4 financial institution's actions related to dispute processing,
5 fraud management, or protecting against illegal activities,
6 breach, cyber risks, or from taking any action that restricts
7 the use or availability of the firearms code.

8 Under the bill, the attorney general shall investigate
9 reasonable alleged violations of the bill and, if the attorney
10 general has reasonable belief that a person is in violation of
11 the bill, the attorney general shall provide written notice
12 to the person determined to have committed the violation.
13 Upon receipt of notice of a violation, a person shall have
14 90 calendar days to cease the violation or, if the violation
15 persists, the attorney general may bring civil action in
16 district court to enjoin further violations, in addition to
17 other remedies permitted by law. If a person knowingly or
18 willfully fails to comply with an injunction after 30 calendar
19 days from the date of being served with the injunction,
20 the attorney general may petition the district court to
21 impose civil penalties in an amount not more than \$1,000
22 per violation. The bill creates a defense to a proceeding
23 initiated under the bill that a firearms code was required to
24 be disclosed or assigned by law.