

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 241

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE SECOND AMENDMENT FINANCIAL PRIVACY ACT; AMENDING TITLE 26,  
2 IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 38, TITLE 26, IDAHO CODE, TO  
3 PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND LEGISLATIVE  
4 INTENT, TO DEFINE TERMS, TO PROHIBIT THE KEEPING OF CERTAIN RECORDS, AND  
5 TO PROVIDE FOR VIOLATIONS AND PENALTIES; AND DECLARING AN EMERGENCY AND  
6 PROVIDING AN EFFECTIVE DATE.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 26, Idaho Code, be, and the same is hereby amended  
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
11 ter 38, Title 26, Idaho Code, and to read as follows:

12 CHAPTER 38

13 SECOND AMENDMENT FINANCIAL PRIVACY ACT

14 26-3801. SHORT TITLE. This chapter shall be known and may be cited as  
15 the "Second Amendment Financial Privacy Act."

16 26-3802. LEGISLATIVE FINDINGS AND LEGISLATIVE INTENT. (1) The legis-  
17 lature finds that:

18 (a) The second amendment to the United States constitution guarantees  
19 the people the right to keep and bear arms;

20 (b) Section 11, article I of the constitution of the state of Idaho pro-  
21 vides that "the people have the right to keep and bear arms, which right  
22 shall not be abridged; ... No law shall impose licensure, registration  
23 or special taxation on the ownership or possession of firearms or ammu-  
24 nition";

25 (c) In September 2022, the international organization for standardiza-  
26 tion, based in Switzerland, approved a new merchant category code for  
27 firearm and ammunition merchants;

28 (d) In a letter to payment card networks, federal lawmakers stated  
29 that the new merchant category code for firearms retailers would be  
30 "the first step towards facilitating the collection of valuable finan-  
31 cial data that could help law enforcement in countering the financing  
32 of terrorism efforts," expressing a clear government expectation that  
33 networks will utilize the new merchant category code to conduct mass  
34 surveillance of constitutionally protected firearms and ammunition  
35 purchases in cooperation with law enforcement;

36 (e) The new merchant category code will allow the banks, payment card  
37 networks, acquirers, and other entities involved in payment card pro-  
38 cessing to identify and separately track lawful payment card purchases  
39 at firearms retailers in the state of Idaho;

1 (f) This potential for tracking of lawful firearms and ammunition pur-  
2 chases will have a significant chilling effect on citizens wishing to  
3 exercise their federal and state constitutional rights to keep and bear  
4 arms in Idaho;

5 (g) While federal law requires some financial institutions to report  
6 transactions that are highly indicative of money laundering or other  
7 unlawful activities, there is no federal or state law authorizing  
8 financial institutions to surveil and track lawful activities by cus-  
9 tomers in cooperation with law enforcement; and

10 (h) The creation or maintenance of records of purchases of firearms or  
11 ammunition or the tracking of sales made by a retailer of firearms or  
12 ammunition by a nongovernmental entity without a substantial and his-  
13 torical business need or a requirement imposed by law may frustrate the  
14 right to keep and bear arms and violate the reasonable privacy rights of  
15 lawful purchasers of firearms or ammunition.

16 (2) It is the intent of the legislature to prohibit the misuse of pay-  
17 ment card processing systems to surveil, report, or otherwise discourage  
18 constitutionally protected firearm and ammunition purchases within the  
19 state of Idaho.

20 26-3803. DEFINITIONS. For purposes of this chapter:

21 (1) "Customer" means any person engaged in a payment card transaction  
22 that a financial institution facilitates or processes.

23 (2) "Disclosure" means the transfer, publication, or distribution of  
24 protected financial information to another person or entity for any purpose  
25 other than to process or facilitate a payment card transaction.

26 (3) "Financial institution" means an entity involved in facilitating  
27 or processing a payment card transaction for a merchant, including but not  
28 limited to a bank, acquirer, or payment card network.

29 (4) "Financial record" means a record held by a financial institution  
30 related to a payment card transaction that the financial institution has  
31 processed or facilitated.

32 (5) "Firearms code" means a merchant category code or any other indica-  
33 tor that a financial institution assigns to a merchant to identify whether  
34 a merchant is a firearms retailer or whether a payment card transaction in-  
35 volves the purchase of a firearm or ammunition.

36 (6) "Firearms retailer" means any person or entity engaged in the  
37 lawful business of selling or trading firearms or ammunition to be used in  
38 firearms.

39 (7) "Governmental entity" means any county or municipality, or state  
40 board, commission, agency, bureau, department, or any other political sub-  
41 division of the state.

42 (8) "Protected financial information" means any record of a sale, pur-  
43 chase, return, or refund involving a payment card that is retrieved, charac-  
44 terized, generated, labeled, sorted, or grouped based on the assignment of a  
45 firearms code.

46 26-3804. RECORDS -- PROHIBITION. (1) No state or local governmental  
47 entity, including an official, agent, or employee thereof, or any other  
48 person, public or private, may knowingly and willfully keep or cause to be

1 kept any list, record, or registry of privately owned firearms or any list,  
2 record, or registry of the owners of those firearms.

3 (2) A financial institution or its agent may not require the usage of a  
4 firearms code by any merchant located in Idaho that is a seller of firearms or  
5 ammunition separately from general merchandise retailers or sporting goods  
6 retailers.

7 26-3805. VIOLATION -- PENALTY. (1) The attorney general may investi-  
8 gate alleged violations of this chapter and, upon finding a violation, shall  
9 provide written notice to any governmental entity, financial institution,  
10 or individual believed to be in violation of this chapter. Upon receipt of  
11 such written notice from the attorney general, the governmental entity, fi-  
12 nancial institution, or individual shall have thirty (30) calendar days to  
13 cease the usage of a firearms code for any Idaho merchant. The attorney gen-  
14 eral may grant a governmental entity, financial institution, or individual,  
15 upon request, up to one hundred twenty (120) days of additional time to com-  
16 ply with the provisions of this chapter, at the attorney general's discre-  
17 tion.

18 (2) If the governmental entity, financial institution, or individual  
19 fails to cease the usage of a firearms code for any merchant located in Idaho  
20 after the expiration of thirty (30) calendar days from the receipt of written  
21 notice by the attorney general's office, the attorney general may pursue an  
22 injunction, which a court may order, against any individual or entity, pub-  
23 lic or private, alleged to be in violation of the provisions of this chapter,  
24 in addition to any such other relief as the court may consider appropriate.

25 (3) It shall not be a defense to a civil action filed under this chapter  
26 that such protected financial information was disclosed to a federal govern-  
27 mental entity, unless such disclosure or action is required by federal law or  
28 regulation.

29 SECTION 2. An emergency existing therefor, which emergency is hereby  
30 declared to exist, this act shall be in full force and effect on and after  
31 July 1, 2023.