

HB0406S01 compared with HB0406

~~text~~ shows text that was in HB0406 but was deleted in HB0406S01.

text shows text that was not in HB0406 but was inserted into HB0406S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative A. Cory Maloy proposes the following substitute bill:

FIREARMS FINANCIAL TRANSACTION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~}~~ **A. Cory Maloy**

Senate Sponsor: ~~{ _____ }~~ Chris H. Wilson

LONG TITLE

General Description:

This bill addresses consumer transactions related to firearms.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a financial entity from using a firearms merchant category code to:
 - distinguish a firearms retailer from other retailers;
 - limit or decline a lawful payment card transaction;
 - limit or decline to do business with a customer or merchant; or
 - charge a merchant a higher transaction fee;
- ▶ prohibits a financial entity from taking any action against a customer or merchant that is intended to suppress or track lawful commerce involving firearms; and

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- ▶ gives enforcement powers to the attorney general.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-70-101, Utah Code Annotated 1953

13-70-201, Utah Code Annotated 1953

13-70-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-70-101** is enacted to read:

CHAPTER 70. FIREARM FINANCIAL TRANSACTIONS

Part 1. General Provisions

13-70-101. Definitions.

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm.

(2) "Customer" means an individual who presents a payment card to a merchant for the purchase of a good or service.

(3) "Financial entity" means ~~an entity other than a merchant who~~ any of the following that is involved in facilitating or processing a payment card transaction, ~~including a bank, savings and loan association, savings bank, industrial bank, credit union, or trust company~~:

(a) a payment card network;

(b) a merchant acquirer; or

(c) a payment facilitator.

(4) "Firearm" means the same as that term is defined in Section 76-10-501.

(5) (a) "Firearm accessory or component" means a device specifically adapted to:

(i) enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm; or

(ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning

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or capabilities of the firearm.

(b) "Firearm accessory or component" includes a telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace, ammunition carrier, or light for target illumination.

(6) "Firearms code" means ~~any indicator that a financial entity assigns to a merchant or to a payment card transaction that identifies whether a merchant is a~~the merchant category code 5723, approved in September 2022 by the International Organization for Standardization, for firearms ~~retailer or whether a payment card transaction involves the purchase of a firearm, firearm accessory or component, ammunition, or reloading supplies~~retailers.

(7) "Firearms retailer" means a ~~person~~merchant physically located in the state and engaged in the lawful business of selling or trading firearms, firearm accessories or components, or ammunition.

(8) "Merchant" means a person who accepts a payment card from a customer for the purchase of a good or service.

(9) "Payment card" means a card, code, or other means by which a person may debit a deposit account or use a line of credit to purchase a good or service.

(10) "Reloading supplies" means any equipment, component, or material designed for the reloading of ammunition, including reloading presses, shell holders, powder measures, priming tools, reloading manuals, casings, and gunpowder.

Section 2. Section 13-70-201 is enacted to read:

Part 2. Prohibited Conduct

13-70-201. Limitations on firearms merchant codes.

(1) A financial entity may not:

~~(1)a~~ for the processing of a payment card transaction, require a merchant to ~~use~~ ~~a~~assign the firearms code in a manner that distinguishes a firearms retailer located in the state from ~~a general merchandise retailer or sporting goods~~another retailer;

~~(2)b~~ decline a lawful payment card transaction based solely on the assignment or nonassignment of ~~a~~the firearms code to the merchant or payment card transaction;

~~(3)c~~ limit or decline to do business with a customer, potential customer, or merchant based ~~solely~~ on the assignment or nonassignment of ~~a~~the firearms code to a previous lawful transaction involving the customer, potential customer, or merchant;

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~~(4)~~d) charge a higher transaction or interchange fee to a merchant for a lawful transaction based solely on the assignment or nonassignment of ~~(a)~~the firearms code; or

~~(5)~~e) take any action based solely on the assignment or nonassignment of the firearms code against a customer or merchant that is intended to suppress or track lawful commerce involving a firearm, firearm accessory or component, ammunition, or reloading supplies.

(2) Nothing in this chapter:

(a) limits a financial entity's ability to:

(i) negotiate with responsible parties; or

(ii) comply with state or federal laws or regulations; or

(b) impairs a financial entity's activities related to dispute processing, fraud or compliance management, or protecting transaction integrity from concerns related to illegal or suspicious activities, data breaches, or cyber risks.

Section 3. Section 13-70-301 is enacted to read:

Part 3. Enforcement

13-70-301. Enforcement powers of the attorney general.

(1) ~~(a)~~ The attorney general ~~(may)~~ has the sole authority to enforce the provisions of this chapter.

(b) Nothing in this chapter creates a private right of action.

(2) (a) If a person believes that a financial entity violated or is in violation of this chapter, the person may file a complaint with the attorney general.

(b) Upon receipt of a complaint, the attorney general shall initiate an investigation.

~~(2)~~3) If, based on investigation, the attorney general believes that a ~~(person)~~ financial entity violated or is in violation of this chapter, the attorney general shall send the ~~(person)~~ financial entity written notice that identifies each violation and directs the ~~(person)~~ financial entity to cease each violation within 30 days after the day on which the ~~(person)~~ financial entity receives the notice.

~~(3)~~4) (a) The attorney general ~~(may)~~ shall initiate a civil action against a ~~(person)~~ who) financial entity that fails to cease a violation of this chapter within the 30-day time period described in Subsection ~~(2)~~3).

(b) In an action under this subsection, the attorney general may seek, and the court may order:

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(i) injunctive relief;

(ii) (A) if the court determines that the {person} financial entity negligently or recklessly violated a provision of this chapter, a civil fine of \$10,000 for each violation or actual damages, whichever is greater; or

(B) if the court determines that the {person} financial entity willfully violated a provision of this chapter, a civil fine of \$25,000 for each violation or actual damages, whichever is greater; and

(iii) costs and reasonable attorney fees to the attorney general if the court issues an injunction or imposes a civil fine.

Section 4. **Effective date.**

This bill takes effect on May 1, 2024.