

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3252

By Delegates Westfall and Kump

[By Request of the Auditor's Office]

[Introduced February 03, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §12-3A-8, relating to prohibiting banks and payment networks from tracking
 3 firearm-related data and outlining penalties regarding the state and local purchasing card
 4 contract if banks and payment networks track firearm-related data.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3A. FINANCIAL ELECTRONIC COMMERCE.

§12-3A-8. Prohibited acts by banks and payment networks; penalties

1 (a) For the purposes of this section:

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

4 (2) "B2B data" means business to business data, commonly classified by a payment
 5 network in three levels of data detail, transmitted between merchants and banks via a payment
 6 network that contains details of payment card transactions between businesses and governmental
 7 entities.

8 (3) "Banking institution" means any banking institution, whether domestic or foreign to the
 9 State of West Virginia, who processes payment card transactions on behalf of a cardholder client
 10 located in West Virginia or a merchant business located in West Virginia.

11 (4) "Firearm" means any weapon which will or is designed to or may readily be converted
 12 to expel a projectile by the action of an explosive, or the frame or receiver of any such weapon.

13 (5) "Firearm accessories" means items that may connect to a firearm including, but not
 14 limited to, hand guards, scopes, magazines, clips, slings, holsters, speed loaders, lasers, sights,
 15 or illuminating lights.

16 (6) "Firearm purchaser" means any lawful purchaser of a firearm, firearm accessory, or
 17 ammunition.

18 (7) "Firearm purchaser data" means any identifying information of a firearm purchaser,
 19 including, but not limited to, name, address, telephone number, social security number, or drivers'

20 license number.

21 (8) "Firearm purchase details" means any identifying information of a firearms purchase,
22 including, but not limited to, the quantity, models, types, model numbers, serial numbers, caliber
23 data, sizes, or optics data of any firearm, firearm accessory, or ammunition.

24 (9) "Firearm retailer" means any licensed and authorized retailer authorized by the State of
25 West Virginia and the Bureau of Alcohol, Tobacco, and Firearms to sell firearms, firearm
26 accessories, or ammunition to a third-party, whether a stand-alone establishment or a separate
27 department or counter within a single retail entity.

28 (10) "ISO" means the International Standards Organization.

29 (11) "ISO 18245" means the ISO standard concerning the assignment of Merchant
30 Category Codes in retail financial services.

31 (12) "MCC" means merchant category code.

32 (13) "Merchant" means any entity in West Virginia who accepts payment cards as a
33 method of payment via a banking institution or payment network.

34 (14) "Merchant category code" means the numerical code listed in ISO 18245 that
35 classifies a business by the types of goods or services it provides.

36 (15) "Level 1 data" means the level 1 data based in B2B data.

37 (16) "Level 2 data" means the level 2 data of B2B data.

38 (17) "Level 3 data" means the level 3 data of B2B data.

39 (18) "Payment card" means any commercial or consumer credit card, debit card,
40 purchasing card, prepaid card, ghost card, or other electronic account used to transact and make
41 purchases at a point of sale, whether online or through a terminal.

42 (19) "Payment network" means a payment network used to transmit and settle payment
43 card transactions, such as Visa, Discover, MasterCard, or American Express.

44 (b) No banking institution or payment network processing payment card transactions
45 between a firearms retailer or firearm purchaser in the State of West Virginia shall:

46 (1) Require any merchant to utilize a merchant category code identifying the merchant as a
47 firearm retailer;

48 (2) Decline or otherwise refuse to process a purchase of a firearm or firearms accessories
49 on the basis of the merchant category code being that of a firearm retailer: *Provided*, That a bank
50 or payment network may decline or otherwise refuse to process the purchase of a firearm or
51 firearms accessories on the basis of the merchant category code being that of a firearm retailer
52 only if requested by the customer due to card security controls, fraud controls, or merchant
53 category code exclusions offered by a bank for the purpose of expenditure control or corporate
54 card control.

55 (3) Require the storage and tracking of firearm purchase details or firearm purchaser data
56 in level 1, level 2, or level 3 data: *Provided*, That if a merchant declines to provide firearm purchase
57 details in level 1, level 2, or level 3 data, the bank or payment network is not required to provide
58 discounted interchange fees to the merchant.

59 (4) Any bank who violates any of the provisions of this section shall be penalized 10
60 scoring points in the technical section of the bid scoring undertaken by the Auditor to procure a
61 local government purchasing card contract authorized in §6-9-2a of this code or a state purchasing
62 card contract authorized in §12-3-10a of this code.

NOTE: The purpose of this bill is to prohibit banking institutions and payment networks from requiring firearms retailers to adopt a merchant category code or transmit B2B data that would specifically identify the firearms retailer as a retailer of firearms, firearm accessories, or ammunition. Banking institutions violating this prohibition would receive a 10-point deduction on the technical section of the procurement scoring of the local or State purchasing card contract when bids are tabulated.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.