

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Commerce Committee  
 2 Representative Snyder offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

WHEREAS, the International Standards Organization, based in Switzerland, recently approved a new merchant category code for firearm and ammunition merchants, and

WHEREAS, firearm and ammunition merchants historically have been classified as sporting goods retailers or general merchandise retailers, which has been sufficient for credit card companies' business needs, and

WHEREAS, according to advocates for the new merchant category code, the new code will allow credit card companies to flag "suspicious" transactions, ostensibly for the purpose of predicting and preventing future gun violence, and

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17 WHEREAS, proponents indicate that the new merchant category  
18 code is a "first step" but have given no guidance as to how to  
19 distinguish suspicious activity from lawful sales, and

20 WHEREAS, the use of either merchant category code cannot  
21 distinguish the sale of a firearm from the sale of a gun safe by  
22 a firearms and ammunition merchant, and

23 WHEREAS, the use of the new merchant category code to  
24 detect suspicious activities predicting future unlawful activity  
25 will likely discourage financial institutions from serving  
26 lawful retailers of firearms and ammunition and chill the lawful  
27 exercise of Second Amendment rights, and

28 WHEREAS, current law requires a firearm retailer to conduct  
29 a criminal history records check on a potential purchaser before  
30 delivering a firearm to the purchaser, and

31 WHEREAS, the new merchant category code may result in  
32 credit card companies reporting law-abiding citizens to a law  
33 enforcement agency based on overbroad definitions of suspicious  
34 activity and the creation of a de facto gun registry and  
35 watchlists of law-abiding citizens, and

36 WHEREAS, the use of the new merchant category code will  
37 likely make the job of law enforcement officers more difficult,  
38 as those purchasing a firearm from a firearm retailer for an  
39 unlawful purpose will likely purchase firearms with cash,  
40 cryptocurrency, or other means that are difficult or impossible  
41 to trace, and

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42 WHEREAS, developing appropriate regulations for the sale of  
43 firearms and ammunition while protecting the right of self-  
44 defense is the role of democratically elected officials, not the  
45 role of unelected bankers and foreign organizations, NOW,  
46 THEREFORE,

47  
48 Be It Enacted by the Legislature of the State of Florida:  
49

50 Section 1. Paragraph (a) of subsection (1) and subsections  
51 (2) and (4) of section 790.335, Florida Statutes, are amended to  
52 read:

53 790.335 Prohibition of registration of firearms;  
54 electronic records.—

55 (1) LEGISLATIVE FINDINGS AND INTENT.—

56 (a) The Legislature finds and declares that:

57 1. The right of individuals to keep and bear arms is  
58 guaranteed under both the Second Amendment to the United States  
59 Constitution and s. 8, Art. I of the State Constitution.

60 2. A list, record, or registry of legally owned firearms  
61 or law-abiding firearm owners is not a law enforcement tool and  
62 can become an instrument for profiling, harassing, or abusing  
63 law-abiding citizens based on their choice to own a firearm and  
64 exercise their Second Amendment right to keep and bear arms as  
65 guaranteed under the United States Constitution. Further, such a  
66 list, record, or registry has the potential to fall into the

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67 | wrong hands and become a shopping list for thieves.

68 |       3. A list, record, or registry of legally owned firearms  
69 | or law-abiding firearm owners is not a tool for fighting  
70 | terrorism, but rather is an instrument that can be used as a  
71 | means to profile innocent citizens and to harass and abuse  
72 | American citizens based solely on their choice to own firearms  
73 | and exercise their Second Amendment right to keep and bear arms  
74 | as guaranteed under the United States Constitution.

75 |       4. The creation or maintenance of records of purchases of  
76 | firearms or ammunition or the tracking of sales made by a  
77 | retailer of firearms or ammunition by a nongovernmental entity,  
78 | including a financial institution, without a substantial and  
79 | historical business need or a requirement imposed by law, may  
80 | frustrate the right to keep and bear arms and violate the  
81 | reasonable privacy rights of lawful purchasers of firearms or  
82 | ammunition.

83 |       5. Law-abiding firearm owners whose names have been  
84 | illegally recorded in a list, record, or registry are entitled  
85 | to redress.

86 |       (2) PROHIBITIONS.—

87 |       (a) A ~~No~~ state governmental agency or local government,  
88 | special district, or other political subdivision or official,  
89 | agent, or employee of the ~~such~~ state or other governmental  
90 | entity or any other person, public or private, may not ~~shall~~  
91 | knowingly and willfully keep or cause to be kept any list,

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92 record, or registry of privately owned firearms or any list,  
93 record, or registry of the owners of those firearms.

94 (b) A payment settlement entity, merchant acquiring  
95 entity, or third party settlement organization as those terms  
96 are defined in s. 6050W of the Internal Revenue Code may not  
97 assign a merchant category code to or otherwise classify a  
98 merchant that is a seller of firearms or ammunition separately  
99 from general merchandise retailers or sporting goods retailers.

100 (c) An entity involved in facilitating or processing a  
101 payment card transaction, including, but not limited to, a  
102 financial institution, an acquirer, a payment card network, or a  
103 payment card issuer, may not assign to or require a merchant to  
104 use a merchant category code that classifies the merchant as a  
105 firearms or ammunition retailer or places the merchant in a  
106 similar classification. A merchant of firearms or ammunition may  
107 be assigned or may use a merchant category code for general  
108 merchandise retailers or sporting goods retailers. Any agreement  
109 or contractual provision to the contrary is void in violation of  
110 the public policy of this state.

111 (4) PENALTIES.—

112 (a) Any person who, or entity that, violates paragraph  
113 (2)(a) a provision of this section commits a felony of the third  
114 degree, punishable as provided in s. 775.082 or s. 775.083.

115 (b) Except as required by ~~the provisions of s. 16, Art. I~~  
116 of the State Constitution or the Sixth Amendment to the United

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117 States Constitution, ~~no~~ public funds may not shall be used to  
118 defend the unlawful conduct of any person charged with a  
119 violation of this section, unless the charges against the such  
120 person are dismissed or the such person is determined to be not  
121 guilty at trial. Notwithstanding this paragraph, public funds  
122 may be expended to provide the services of the office of public  
123 defender or court-appointed conflict counsel as provided by law.

124 (c) The governmental entity, or the designee of the such  
125 governmental entity, in whose service or employ a list, record,  
126 or registry was compiled in violation of paragraph (2)(a) this  
127 section may be assessed a fine of up to not more than \$5  
128 million, if the court determines that the evidence shows that  
129 the list, record, or registry was compiled or maintained with  
130 the knowledge or complicity of the management of the  
131 governmental entity. The Attorney General may bring a civil  
132 cause of action to enforce the fines assessed under this  
133 paragraph.

134 (d) The Department of Agriculture and Consumer Services  
135 may investigate alleged violations of paragraph (2)(b) or  
136 paragraph (2)(c) and, upon finding a violation, bring an  
137 administrative action seeking to impose an administrative fine  
138 pursuant to s. 570.971 in the Class III category for each  
139 violation of paragraph (2)(b) or paragraph (2)(c) for each  
140 instance of an unlawfully classified retailer.

141 (e) The state attorney in the appropriate jurisdiction

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142 shall investigate complaints of criminal violations of this  
143 section, except for alleged violations of paragraph (2) (b) or  
144 paragraph (2) (c), and shall prosecute violators, where evidence  
145 indicates that a violation may have occurred, ~~shall prosecute~~  
146 ~~violators.~~

147 Section 2. This act shall take effect July 1, 2023.

148

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150 **T I T L E A M E N D M E N T**

151 Remove everything before the enacting clause and insert:

152 An act relating to sales of firearms and ammunition;  
153 amending s. 790.335, F.S.; providing legislative  
154 findings; prohibiting payment settlement entities,  
155 merchant acquiring entities, or third party settlement  
156 organizations from assigning merchant category codes  
157 or otherwise classifying merchants of firearms or  
158 ammunition separately from general merchandise or  
159 sporting goods retailers; prohibiting entities  
160 involved in facilitating or processing payment card  
161 transactions from assigning to or requiring a merchant  
162 to use certain merchant category codes; authorizing a  
163 merchant of firearms or ammunition to be assigned or  
164 to use certain merchant category codes; specifying  
165 that any agreement or contractual provision to the  
166 contrary is void and in violation of the public policy

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167 | of this state; authorizing the Department of  
168 | Agriculture and Consumer Services to investigate  
169 | certain alleged violations and bring administrative  
170 | actions; providing an exception to complaint  
171 | investigations by state attorneys; making technical  
172 | changes; providing an effective date.