

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To prohibit payment card networks and covered entities from requiring the use of or assigning merchant category codes that distinguish a firearms retailer from a general merchandise retailer or sporting goods retailer, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. HAGERTY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To prohibit payment card networks and covered entities from requiring the use of or assigning merchant category codes that distinguish a firearms retailer from a general merchandise retailer or sporting goods retailer, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Privacy in  
5 Purchases Act”.

6 **SEC. 2. DISTINGUISHING FIREARMS SALES.**

7 (a) DEFINITIONS.—In this section:

1           (1) AMMUNITION.—The term “ammunition”  
2 has the meaning given the term in section  
3 921(a)(17)(A) of title 18, United States Code, as  
4 applied to a firearm, as defined in paragraph (3).

5           (2) COVERED ENTITY.—The term “covered en-  
6 tity” means any entity that establishes a relation-  
7 ship with—

8                   (A) a merchant for the purposes of proc-  
9 essing credit, debit, or prepaid transactions; or

10                   (B) another entity that establishes a rela-  
11 tionship with a merchant for the purposes of  
12 processing credit, debit, or prepaid transactions.

13           (3) FIREARM.—The term “firearm” means an  
14 item described in paragraph (3), (5), (7), (16), (29),  
15 or (30) of section 921(a) of title 18, United States  
16 Code.

17           (4) FIREARMS RETAILER.—The term “firearms  
18 retailer” means a person or entity engaged in the  
19 lawful business of selling or trading—

20                   (A) firearms; or

21                   (B) ammunition to be used in firearms.

22           (5) MERCHANT CATEGORY CODE.—The term  
23 “merchant category code” means a multi-digit code  
24 that is issued by the International Organization for  
25 Standardization for the purposes of enabling the

1 classification of merchants into specific categories  
2 based on the type of business or trade of the mer-  
3 chant or the services supplied by the merchant.

4 (6) PAYMENT CARD NETWORK.—The term  
5 “payment card network” means an entity that, di-  
6 rectly or through a licensed member, processor, or  
7 agent, provides a proprietary service, infrastructure,  
8 software, or hardware that routes information used  
9 to authorize, clear, and settle credit card and debit  
10 card transactions.

11 (b) PROHIBITIONS RELATING TO MERCHANT CAT-  
12 EGORY CODES.—

13 (1) PAYMENT CARD NETWORKS.—A payment  
14 card network may not require a firearms retailer to  
15 use, nor require a covered entity to assign to a fire-  
16 arms retailer, a merchant category code that distin-  
17 guishes the firearms retailer from a general mer-  
18 chandise retailer or a sporting goods retailer.

19 (2) COVERED ENTITIES.—Neither a covered en-  
20 tity, nor any agent of a covered entity, may assign  
21 to a firearms retailer any merchant category code  
22 that distinguishes the firearms retailer from a gen-  
23 eral merchandise retailer or a sporting goods re-  
24 tailer.

25 (c) ENFORCEMENT.—

1           (1) IN GENERAL.—The Attorney General  
2 shall—

3                   (A) enforce this section, including by con-  
4 ducting investigations of potential violations of  
5 this section; and

6                   (B) not later than 90 days after the date  
7 of enactment of this Act, establish a process for  
8 a person, including a firearms retailer, to sub-  
9 mit to the Attorney General a complaint relat-  
10 ing to an alleged violation of this section.

11           (2) INVESTIGATION.—The Attorney General  
12 shall investigate each complaint received through the  
13 processes established under paragraph (1)(B).

14           (3) WRITTEN NOTICE.—If the Attorney General  
15 determines after conducting an investigation (wheth-  
16 er initiated by the Attorney General or through a  
17 complaint received through the process established  
18 under paragraph (1)(B)) that a payment card net-  
19 work or a covered entity has violated this section,  
20 the Attorney General shall send to that payment  
21 card network or covered entity, as applicable, written  
22 notice of that violation that requires the payment  
23 card network or covered entity to remedy the viola-  
24 tion not later than 30 days after the date on which

1 the payment card network or covered entity receives  
2 that notice.

3 (4) INJUNCTION.—

4 (A) IN GENERAL.—If a payment card net-  
5 work or covered entity does not remedy a viola-  
6 tion of this section within 30 days of receiving  
7 written notice under paragraph (3), the Attor-  
8 ney General may bring an action in an appro-  
9 priate district court of the United States to en-  
10 join the violating behavior.

11 (B) NO PRIVATE RIGHT OF ACTION.—

12 Nothing in this section may be construed as es-  
13 tablishing a private right of action.

14 (d) PREEMPTION.—Any law of a State or local gov-  
15 ernment regulating merchant category codes for firearm  
16 retailers is hereby preempted by this section.

17 (e) REPORT.—Not later than 1 year after the date  
18 of enactment of this Act, and annually thereafter, the At-  
19 torney General shall submit to Congress a report that—

20 (1) for the year covered by the report, identifies  
21 the total number of investigations undertaken by the  
22 Attorney General under this section, whether initi-  
23 ated by the Attorney General or through a complaint  
24 received through the process established under sub-  
25 section (c)(1)(B);

1           (2) includes a summary of each investigation  
2 described in paragraph (1), including the disposition  
3 of each such investigation; and

4           (3) provides any available data and analysis re-  
5 garding the effectiveness of this Act.