

119TH CONGRESS
1ST 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.

IN THE SENATE OF THE UNITED STATES

Mr. HAGERTY (for himself, Mr. JUSTICE, Mr. GRAHAM, Mr. RISCH, Ms. LUMMIS, Mr. CASSIDY, Mr. HOEVEN, Mr. BUDD, Mr. DAINES, Mr. LEE, Mr. RICKETTS, Mr. CRAMER, Mr. CRAPO, Mr. SCOTT of Florida, Mr. MULLIN, Mrs. FISCHER, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on

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”.

1 **SEC. 2. DISTINGUISHING FIREARMS SALES.**

2 (a) DEFINITIONS.—In this section:

3 (1) AMMUNITION.—The term “ammunition”
4 has the meaning given the term in section
5 921(a)(17)(A) of title 18, United States Code, as
6 applied to a firearm, as defined in paragraph (3).

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

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

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

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

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

22 (A) firearms; or

23 (B) ammunition to be used in firearms.

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

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

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

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

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

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

1 (c) ENFORCEMENT.—

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

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

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

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

15 (3) WRITTEN NOTICE.—If the Attorney General
16 determines after conducting an investigation (wheth-
17 er initiated by the Attorney General or through a
18 complaint received through the process established
19 under paragraph (1)(B)) that a payment card net-
20 work or a covered entity has violated this section,
21 the Attorney General shall send to that payment
22 card network or covered entity, as applicable, written
23 notice of that violation that requires the payment
24 card network or covered entity to remedy the viola-
25 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.—If a payment card network
4 or covered entity does not remedy a violation of this
5 section within 30 days of receiving written notice
6 under paragraph (3), the Attorney General may
7 bring an action in an appropriate district court of
8 the United States to enjoin the violating behavior.

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

12 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this
13 section may be construed as establishing a private right
14 of action.

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

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