

HB 1186-FN - AS INTRODUCED

2024 SESSION

24-2082

09/05

HOUSE BILL ***1186-FN***

AN ACT relative to firearm purchaser's privacy.

SPONSORS: Rep. Janvrin, Rock. 40; Rep. S. Smith, Sull. 3; Rep. Potucek, Rock. 13; Rep. T. Lekas, Hills. 38; Rep. Aron, Sull. 4; Rep. Stone, Sull. 8; Rep. T. Mannion, Hills. 1

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the assigning of a specific merchant code to the sale of firearms, ammunition, or firearm accessories, and provides a civil penalty for violations of this prohibition. This bill further provides a mechanism for enforcement of this prohibition.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24-2082

09/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to firearm purchaser's privacy.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Short Title. This act may be known and cited to as the Firearm Purchaser's Privacy Act.

2 New Chapter; Firearm Purchaser's Privacy. Amend RSA by inserting after chapter 159-E the following new chapter:

CHAPTER 159-F

FIREARM PURCHASER'S PRIVACY

159-E:1 Definitions.

In this chapter:

I. "Electronic payment transaction" means a transaction in which a person uses a payment card or other payment code or device issued or approved through a payment card network to debit a deposit account or use a line of credit, whether authorization is based on a signature, personal identification number, or other means.

II. "Firearms code" means any code or other indicator a financial institution assigns to a merchant or to a payment card transaction that identifies whether a merchant is a firearms retailer or whether the payment card transaction involves the purchase of a firearm, firearm accessories or components, or ammunition. The term includes, but is not limited to, a merchant category code assigned to a retailer by a payment card network or other financial institution.

III. "Firearms retailer" means any person or entity engaged in the sale of firearms, ammunition for use in firearms, or firearms accessories.

IV. "Payment card" means a credit card, debit card, check card, or other card that is issued to an authorized user to purchase or obtain goods, services, money, or any other thing of value.

V. "Payment card issuer" means a lender, including a financial institution, or a merchant that receives applications and issues payment cards to individuals.

VI. "Payment card network" means an entity that directly or through a licensed member, processor, or agent provides the proprietary services, infrastructure, and software that route information and data to conduct debit card or credit card transaction authorization, clearance, and settlement, and that an entity uses in order to accept as a form of payment a brand of debit card, credit card, or other device that may be used to carry out debit or credit transactions.

159-E:2 Firearm Code Usage Prohibited.

I. A person or entity involved in facilitating or processing an electronic payment transaction and licensed to do business in this state, including a payment card issuer or payment card network, may not assign to a merchant or require a merchant to use a firearms code.

II. For the purposes of the sale of firearms, ammunition for use in firearms, and firearms accessories, a firearms retailer may not provide a firearms code to a payment card issuer or payment card network and may only use or be assigned a merchant category code for general merchandise retailers or sporting goods retailers.

159-E:3 Authority of Attorney General to Investigate Violations.

I. If the attorney general has reasonable cause to believe that a person or entity has engaged in, is engaging in, or is about to engage in a violation of this chapter, the attorney general shall have the power to examine witnesses and documents for the purpose of enforcing the provisions of this chapter.

II. If the attorney general believes a person under investigation for violation of the provisions of this chapter may have information or be in possession, custody or control of any document or other tangible object relevant to the investigation, before the institution of any court proceedings, the attorney general may serve upon the person a written demand in the form of a subpoena or subpoena duces tecum to appear and be examined under oath and to produce the documents or objects for inspection and copying.

159-E:4 Notice and Opportunity to Cure.

I. Upon a finding by the attorney general that there has been a violation of this chapter, the attorney general shall give written notice to the person or entity, identifying the specific provisions of this chapter that are or were being violated.

II. The attorney general may not bring an action against the person or entity if the person or entity:

(a) Cures the identified violation within 30 days; and

(b) Provides the attorney general a written statement affirming that the person or entity has:

(1) Cured the alleged violation;

(2) Provided supporting documentation to show how the violation was cured; and

(3) Made changes to internal policies to prevent the recurrence of any similar violation in the future.

159-E:5 Enforcement; Civil Penalty; Injunction.

I. The attorney general has exclusive authority to enforce this chapter.

II. A person or entity who violates this chapter and fails to cure the violation in accordance with RSA 159-E:4, or who breaches a written statement provided to the attorney general under that section, is liable for a civil penalty in the amount of \$10,000 for each violation.

III. The attorney general may bring an action to:

(a) Recover a civil penalty under this section; and

(b) Restrain or enjoin a person or entity from violating this chapter.

IV. The attorney general may recover reasonable attorney's fees and other reasonable expenses incurred in investigating and bringing an action under this section.

3 Effective Date. This act shall take effect January 1, 2025.

LBA

24-2082

11/27/23

**HB 1186-FN- FISCAL NOTE
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FISCAL IMPACT: State County Local None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures	\$0	Approximately \$90,000 Per Year		
<i>Funding Source(s)</i>	General Fund			
Appropriations	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

- Does this bill provide sufficient funding to cover estimated expenditures? No
- Does this bill authorize new positions to implement this bill? No

METHODOLOGY:

This bill requires the Attorney General to conduct investigations into certain prohibited conduct with respect to firearms sales and authorizes it to issue subpoenas and assess civil penalties. Although it is difficult to estimate the number of anticipated investigations generated by this proposed bill, the Department of Justice states its Public Safety and Infrastructure Bureau would require, at a minimum, one (1) additional part-time investigator and one (1) part-time attorney to implement this bill. The estimated cost for these two positions is approximately \$90,000 per year.

AGENCIES CONTACTED:

Department of Justice