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AB-1587 Financial transactions: firearms merchants: merchant category code. (2023-2024)

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Assembly Bill No. 1587

CHAPTER 247

An act to add Division 26 (commencing with Section 110000) to the Financial Code, relating to financial transactions.

[Approved by Governor September 26, 2023. Filed with Secretary of State September 26, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1587, Ting. Financial transactions: firearms merchants: merchant category code.

Existing law, the California Financing Law, generally provides for the licensure and regulation of finance lenders, brokers, and program administrators by the Commissioner of Financial Protection and Innovation.

Existing law establishes a firearm industry standard of conduct that requires a firearm industry member to establish, implement, and enforce reasonable controls and to take responsible precautions to ensure that the member does not sell, distribute, or provide a firearm-related product to a downstream distributor or retailer of firearm-related products under specified circumstances. Existing law prohibits a firearm industry member from manufacturing, marketing, importing, offering for wholesale sale, or offering for retail sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in California, as specified. Existing law authorizes, among others, the Attorney General to bring a civil action against a firearm industry member for an act or omission in violation of the firearm industry standard of conduct, as specified. Existing law defines various terms for these purposes.

This bill would, by July 1, 2024, require a payment card network to make the merchant category code for firearms and ammunition businesses established by the International Organization for Standardization on September 9, 2022, available for merchant acquirers that provide payment services for firearms merchants. The bill would, beginning May 1, 2025, require a merchant acquirer to assign to a firearms merchant that merchant category code. The bill would provide that the Attorney General has exclusive authority to enforce these provisions, and would authorize the Attorney General to bring a civil action to enforce these provisions and remedy harm caused by a violation of these provisions. The bill would require a court that determines that a person or entity has violated these provisions to award specified relief, including a civil penalty in the amount of \$10,000 for each violation. The bill would define various terms for these purposes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Division 26 (commencing with Section 110000) is added to the Financial Code, to read:

DIVISION 26. Firearms Merchant Category Code

110000. For purposes of this division, the following definitions apply:

(a) "Ammunition" has the same meaning as provided in subdivision (b) of Section 16150 of the Penal Code.

(b) "Firearm" has the same meaning as provided in subdivisions (a) and (b) of Section 16520 of the Penal Code.

(c) "Firearm accessory" means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm that is designed, intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter's ability to hold and use a firearm.

(d) "Firearms merchant" means a business licensed in California as a firearms dealer or ammunition vendor for which the highest sales value is, or is expected to be, from the combined sale in California of firearms, firearm accessories, or ammunition, as stated by the business to its merchant acquirer in the ordinary course of business.

(e) "Merchant acquirer" means an entity that establishes a relationship with a merchant for the purposes of processing credit, debit, or prepaid transactions.

(f) "Payment card network" means an entity that provides services that route transactions between bank participants to conduct debit, credit, or prepaid transactions for the purpose of authorization, clearance, or settlement.

110001. (a) By July 1, 2024, a payment card network shall make the merchant category code for firearms and ammunition businesses established by the International Organization for Standardization on September 9, 2022, available for merchant acquirers that provide payment services for firearms merchants.

(b) Beginning May 1, 2025, a merchant acquirer shall assign to a firearms merchant the merchant category code for firearms and ammunition businesses established by the International Organization for Standardization on September 9, 2022.

(c) A waiver of a provision of this division is contrary to public policy and is void and unenforceable.

110002. (a) The Attorney General has exclusive authority to enforce this division.

(b) Not later than the 30th day before bringing an action under subdivision (e), 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.

(c) The Attorney General shall not bring an action under subdivision (e) if the person or entity who receives the notice described in subdivision (b) does both of the following:

(1) Cures the identified violation within 30 days of receiving the notice.

(2) Provides the Attorney General a written statement confirming that the person or entity has done all of the following:

(A) Cured the violation.

(B) Provided supporting documentation to show how the violation was cured.

(C) Made changes to internal policies to prevent the recurrence of violations in the future.

(d) A person or entity who violates the division and fails to cure the violation in accordance with subdivision (c) shall be liable as provided in subdivision (e).

(e) (1) The Attorney General may bring a civil action to enforce this division and remedy harm caused by a violation of this division.

(2) If a court determines that a person or entity has violated this division, the court shall award all of the following relief:

(A) A civil penalty in the amount of ten thousand dollars (\$10,000) for each violation.

(B) Injunctive relief sufficient to prevent the person or entity from further violations of this division.

(C) Reasonable attorney's fees and costs incurred in investigating and bringing an action under this division.