

BUSINESS AND COMMERCE CODE

TITLE 12. RIGHTS AND DUTIES OF CONSUMERS AND MERCHANTS

CHAPTER 610. UNAUTHORIZED TRANSACTION CATEGORIZATION

Sec. 610.001. DEFINITIONS. In this chapter:

(1) "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.

(2) "Firearms code" means any merchant category code approved by the International Organization for Standardization for a firearms retailer, including Merchant Category Code 5723.

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

(4) "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.

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

(6) "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.

Added by Acts 2023, 88th Leg., R.S., Ch. 514 (H.B. [2837](#)), Sec. 3, eff. September 1, 2023.

Sec. 610.002. UNAUTHORIZED CATEGORIZATION OF CERTAIN TRANSACTIONS. (a) A person or entity involved in facilitating or

processing an electronic payment transaction, including a payment card issuer or payment card network, may not assign to a merchant or require a merchant to use a firearms code.

(b) 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. Any agreement or contractual provision to the contrary is void.

(c) A payment card issuer or payment card network shall notify the payment card holder in writing on every occasion that a firearms code is assigned to an electronic payment transaction on the payment card holder's account.

Added by Acts 2023, 88th Leg., R.S., Ch. 514 (H.B. [2837](#)), Sec. 3, eff. September 1, 2023.

Sec. 610.003. INVESTIGATIVE AUTHORITY OF ATTORNEY GENERAL.

(a) 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 issue a civil investigative demand. The procedures established for the issuance of a civil investigative demand under Section [15.10](#) apply to the same extent and manner to the issuance of a civil investigative demand under this section.

(b) The attorney general may request, pursuant to a civil investigative demand issued under Subsection (a), that a person or entity disclose any data that is relevant to an investigation conducted by the attorney general. The attorney general shall evaluate the data for compliance with the requirements set forth in Section [610.002](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 514 (H.B. [2837](#)), Sec. 3, eff. September 1, 2023.

Sec. 610.004. NOTICE OF VIOLATION OF CHAPTER; OPPORTUNITY TO CURE.

(a) Not later than the 30th day before bringing an action under Section [610.005](#), the attorney general must give written notice to the person or entity identifying the specific provisions

of this chapter that are or were being violated.

(b) The attorney general may not bring an action against the person or entity if the person or entity:

(1) cures the identified violation within the 30-day period; and

(2) provides the attorney general a written statement affirming that the person or entity has:

(A) cured the alleged violation;

(B) provided supporting documentation to show how the violation was cured; and

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

Added by Acts 2023, 88th Leg., R.S., Ch. 514 (H.B. 2837), Sec. 3, eff. September 1, 2023.

Sec. 610.005. ENFORCEMENT; CIVIL PENALTY; INJUNCTION. (a) Except as provided by Section 610.006, the attorney general has exclusive authority to enforce this chapter.

(b) A person or entity who violates this chapter and fails to cure the violation in accordance with Section 610.004, 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.

(c) The attorney general shall bring an action to:

(1) recover a civil penalty under this section; and

(2) restrain or enjoin a person or entity from violating this chapter.

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

(e) The attorney general shall deposit a civil penalty collected under this section in the state treasury to the credit of the general revenue fund.

Added by Acts 2023, 88th Leg., R.S., Ch. 514 (H.B. 2837), Sec. 3, eff. September 1, 2023.

Sec. 610.006. PRIVATE RIGHT OF ACTION. (a) A person who has

used a payment card to purchase a firearm, ammunition for use in a firearm, or a firearm accessory may bring an action against a payment card issuer or payment card network to obtain:

(1) a declaratory judgment under Chapter 37, Civil Practice and Remedies Code, that the payment card issuer or payment card network has violated Section 610.002; or

(2) a judgment enjoining the payment card issuer or payment card network from violating Section 610.002.

(b) Except as provided by Subsection (a), this chapter may not be construed as providing a basis for, or being subject to, a private right of action for a violation of this chapter or any other law.

Added by Acts 2023, 88th Leg., R.S., Ch. 514 (H.B. 2837), Sec. 3, eff. September 1, 2023.