

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 24-066

BY SENATOR(S) Sullivan, Bridges, Buckner, Coleman, Cutter, Danielson, Exum, Fields, Gonzales, Hansen, Jaquez Lewis, Kolker, Michaelson Jenet, Rodriguez, Winter F., Fenberg;
also REPRESENTATIVE(S) Froelich and Mabrey, Amabile, Bacon, Boesenecker, Brown, Daugherty, deGruy Kennedy, Epps, Garcia, Hamrick, Hernandez, Herod, Jodeh, Joseph, Kipp, Lindsay, Lindstedt, McCormick, Ortiz, Rutinel, Story, Weissman, Woodrow.

CONCERNING A REQUIREMENT THAT CERTAIN BUSINESSES WITH
RELATIONSHIPS WITH FIREARMS MERCHANTS USE THE APPROPRIATE
MERCHANT CATEGORY CODE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 2 to article 27 of title 6 as follows:

PART 2
PAYMENT PROCESSING FOR
RETAIL SALES OF FIREARMS

6-27-201. Definitions. AS USED IN THIS PART 2, UNLESS THE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

CONTEXT OTHERWISE REQUIRES:

(1) "ATTORNEY GENERAL" INCLUDES AN ATTORNEY GENERAL'S DESIGNEE ACTING WITHIN THE SCOPE OF THE DESIGNEE'S DUTIES AS AN EMPLOYEE OF THE ATTORNEY GENERAL'S OFFICE.

(2) "FIREARM" HAS THE MEANING SET FORTH IN SECTION 18-1-901 (3)(h).

(3) "FIREARM ACCESSORY" MEANS A DEVICE DESIGNED OR ADAPTED TO BE INSERTED INTO, ATTACHED TO, OR USED WITH A FIREARM IF THE DEVICE ALTERS:

- (a) THE FIRING CAPABILITIES OF THE FIREARM;
- (b) THE LETHALITY OF THE FIREARM; OR
- (c) THE SHOOTER'S ABILITY TO HOLD OR USE THE FIREARM.

(4) "FIREARMS MERCHANT" MEANS A BUSINESS THAT:

- (a) IS PHYSICALLY LOCATED IN COLORADO;
- (b) ACQUIRES AND SELLS FIREARMS, FIREARM ACCESSORIES, AND FIREARM AMMUNITION WITH THE INTENTION OF MAKING A PROFIT; AND
- (c) HAS ITS HIGHEST GROSS REVENUE OR EXPECTED GROSS REVENUE FROM THE COMBINED SALE IN COLORADO OF FIREARMS, FIREARM ACCESSORIES, OR FIREARM AMMUNITION, AS STATED BY THE BUSINESS TO ITS MERCHANT ACQUIRER IN THE ORDINARY COURSE OF BUSINESS.

(5) "MERCHANT ACQUIRER" MEANS A PERSON WITH A RELATIONSHIP WITH A MERCHANT FOR THE PURPOSES OF PROCESSING CREDIT, DEBIT, OR PREPAID TRANSACTIONS.

(6) "MERCHANT CATEGORY CODE FOR FIREARMS" OR "CODE" MEANS THE MERCHANT CATEGORY CODE FOR FIREARMS AND AMMUNITION BUSINESSES ESTABLISHED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION ON SEPTEMBER 9, 2022.

(7) "PAYMENT CARD NETWORK" MEANS A PERSON THAT PROVIDES SERVICES TO ROUTE TRANSACTIONS BETWEEN BANK PARTICIPANTS TO CONDUCT DEBIT, CREDIT, OR PREPAID TRANSACTIONS FOR THE PURPOSES OF AUTHORIZATION, CLEARANCE, OR SETTLEMENT.

6-27-202. Payment card network - merchant category code. ON AND AFTER SEPTEMBER 1, 2024, A PAYMENT CARD NETWORK SHALL MAKE THE MERCHANT CATEGORY CODE FOR FIREARMS AVAILABLE FOR MERCHANT ACQUIRERS THAT PROVIDE PAYMENT SERVICES FOR FIREARMS MERCHANTS.

6-27-203. Merchant acquirer - merchant category. EFFECTIVE MAY 1, 2025, A MERCHANT ACQUIRER SHALL ASSIGN THE MERCHANT CATEGORY CODE FOR FIREARMS TO EACH FIREARMS MERCHANT TO WHICH THE MERCHANT ACQUIRER PROVIDES SERVICES.

6-27-204. Waivers void. A CONTRACTUAL WAIVER OF THIS PART 2 IS VOID BECAUSE THE WAIVER IS CONTRARY TO PUBLIC POLICY.

6-27-205. Attorney general - exclusive enforcement authority. THE ATTORNEY GENERAL HAS EXCLUSIVE AUTHORITY TO ENFORCE THIS PART 2, WHICH DOES NOT GRANT ANY OTHER PERSON AUTHORITY TO BRING A CIVIL ACTION TO ENFORCE THIS PART 2 OR SEEK DAMAGES AS A RESULT OF A VIOLATION OF THIS PART 2.

6-27-206. Enforcement. (1) NOT FEWER THAN FORTY-FIVE DAYS BEFORE BRINGING AN ACTION UNDER SUBSECTION (3) OF THIS SECTION, THE ATTORNEY GENERAL MUST NOTIFY IN WRITING THE PERSON ALLEGED TO BE IN VIOLATION OF THIS PART 2. A COURT SHALL DISMISS, WITHOUT PREJUDICE, AN ACTION UNTIL THE ATTORNEY GENERAL HAS COMPLIED WITH THIS SUBSECTION (1). THE NOTICE MUST CONTAIN:

(a) EACH SPECIFIC PROVISION OF THIS PART 2 THAT IS ALLEGED TO HAVE BEEN VIOLATED; AND

(b) THE ACTS OR OMISSIONS THAT ARE ALLEGED TO HAVE VIOLATED EACH PROVISION DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION.

(2) THE ATTORNEY GENERAL SHALL NOT BRING AN ACTION UNDER THIS SECTION IF THE PERSON THAT RECEIVES THE NOTICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION:

(a) CURES THE DESCRIBED VIOLATION WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE;

(b) PROVIDES THE ATTORNEY GENERAL A WRITTEN STATEMENT, MADE UNDER PENALTY OF PERJURY, THAT THE PERSON HAS:

(I) CURED THE VIOLATION; AND

(II) MADE ANY NECESSARY CHANGES TO THE PERSON'S INTERNAL POLICIES TO PREVENT FUTURE VIOLATIONS OF THIS SECTION; AND

(c) PROVIDES ANY NECESSARY SUPPORTING DOCUMENTATION THAT SHOWS HOW THE VIOLATION WAS CURED.

(3) A PERSON THAT VIOLATES THIS PART 2 AND DOES NOT CURE THE VIOLATION IN ACCORDANCE WITH SUBSECTIONS (2)(a) TO (2)(c) OF THIS SECTION IS SUBJECT TO THE FOLLOWING AND THE ATTORNEY GENERAL MAY FILE AN ACTION SEEKING:

(a) A CIVIL PENALTY OF UP TO TEN THOUSAND DOLLARS FOR EACH VIOLATION; OR

(b) AN INJUNCTION OR EQUITABLE RELIEF THAT PREVENTS A FURTHER VIOLATION OF THIS PART 2.

(4) IF THE ATTORNEY GENERAL PREVAILS IN AN ACTION BROUGHT PURSUANT TO THIS PART 2, A COURT MAY ISSUE AN ORDER REQUIRING THE VIOLATOR TO PAY REASONABLE ATTORNEY FEES AND COSTS INCURRED IN BRINGING THE ACTION.

SECTION 2. In Colorado Revised Statutes, **add** 11-30-127 as follows:

11-30-127. Merchant code for firearms. A PAYMENT CARD NETWORK, AS DEFINED IN SECTION 6-27-201 (7), OR A MERCHANT ACQUIRER, AS DEFINED IN SECTION 6-27-201 (5), SHALL COMPLY WITH PART 2 OF ARTICLE 27 OF TITLE 6.

SECTION 3. In Colorado Revised Statutes, **add** 11-105-211 as follows:

11-105-211. Merchant code for firearms. A PAYMENT CARD NETWORK, AS DEFINED IN SECTION 6-27-201 (7), OR A MERCHANT ACQUIRER, AS DEFINED IN SECTION 6-27-201 (5), SHALL COMPLY WITH PART 2 OF ARTICLE 27 OF TITLE 6.

SECTION 4. In Colorado Revised Statutes, **amend** 6-27-101 as follows:

6-27-101. Short title. The short title of this ~~article 27~~ PART 1 is the "Jessi Redfield Ghawi's Act For Gun Violence Victims' Access to Justice and Firearms Industry Accountability".

SECTION 5. In Colorado Revised Statutes, 6-27-103, **amend** the introductory portion as follows:

6-27-103. Definitions. As used in this ~~article 27~~ PART 1, unless the context otherwise requires:

SECTION 6. In Colorado Revised Statutes, 6-27-105, **amend** (1), (2), (3)(a), (3)(d), and (4) as follows:

6-27-105. Cause of action for violations of standards of responsible conduct. (1) A person or entity that has suffered harm as a result of a firearm industry member's acts or omissions in knowing violation of section 6-27-104 may bring a civil action pursuant to this ~~article 27~~ PART 1 in a court of competent jurisdiction.

(2) The attorney general, or the attorney general's designee, may bring a civil action in a court of competent jurisdiction to enforce this ~~article 27~~ PART 1 and remedy harms caused by any acts or omissions in knowing violation of section 6-27-104.

(3) In an action brought pursuant to this section, if the court determines that a firearm industry member engaged in conduct in violation of section 6-27-104, the court shall award just and appropriate relief, which may include but is not limited to:

(a) Injunctive relief sufficient to prevent the firearm industry member and any other defendant from further violating this ~~article 27~~ PART 1;

(d) Any other just and appropriate relief necessary to enforce this ~~article 27~~ PART 1 and remedy the harm caused by the violation.

(4) In an action brought pursuant to this ~~article 27~~ PART 1, and notwithstanding any intervening act by a third party, if a firearm industry member's knowing violation of this ~~article 27~~ PART 1 creates a reasonably foreseeable risk that harm would occur, the firearm industry member's violation is presumed to be the proximate cause of the harm suffered by the plaintiff.

SECTION 7. In Colorado Revised Statutes, **amend** 6-27-106 as follows:

6-27-106. Limitations. (1) Nothing in this ~~article 27~~ PART 1 limits or impairs in any way the right of the attorney general, or any person or entity, to pursue a legal action pursuant to any other law, cause of action, tort theory, or other authority.

(2) Nothing in this ~~article 27~~ PART 1 limits or impairs in any way an obligation or requirement placed on a firearm industry member by any other authority.

(3) This ~~article 27~~ PART 1 must be construed and applied in a manner that is consistent with the requirements of the constitutions of Colorado and the United States.

SECTION 8. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO