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# TY BODDEN

STATE REPRESENTATIVE • 59<sup>TH</sup> ASSEMBLY DISTRICT

**Testimony on Assembly Bill 468**  
Assembly Committee on Consumer Protection  
Thursday, November 2, 2023

Thank you, Chairman Callahan, and members of the Consumer Protection Committee for the opportunity to testify in favor of Assembly Bill 468. Thank you Senator Stafsholt for leading on this legislation with me to protect our privacy and our Second Amendment rights.

This legislation would prohibit a financial institution, as part of a payment card transaction, from requiring the use of a merchant category code that identifies the merchant as a firearms retailer. Merchant Category Codes (MCCs) are four-digit numbers that a credit card issuer uses to categorize the transactions consumers complete using a particular card. Payment brands use merchant category codes to classify merchants and businesses by the type of goods or services provided in order to track and restrict transactions.

The attempt to implement credit card purchase tracking at firearm retailers poses a significant threat to the privacy and Second Amendment rights of gun owners across our state. Recognizing the gravity of this issue, major credit card companies in the United States have wisely chosen to "pause" the implementation of firearm retailer-specific MCCs. To ensure that this pause remains in effect permanently, several states have passed legislation since March 2023, explicitly prohibiting the use of MCCs to track firearm retail purchases. Additional states are currently in the process of introducing and enacting similar legislation. This type of privacy protection is also gaining momentum within the halls of Congress.

The potential establishment of a firearm-specific MCC could have severe consequences, including flagging ordinary large purchases as "suspicious" by the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCen), possibly leading to transaction denials. Moreover, it could result in lawful transactions made by law-abiding gun owners being reported to law enforcement agencies. This bill further requires the DOJ to ensure that such records are not stored, maintained, or formatted into a list that identifies persons who have purchased a firearm. The bill further codifies and reinforces existing federal law by prohibiting governmental entities from intentionally generating, retaining, or managing lists of individuals who own firearms, thereby codifying this prohibition into state law.

Similar Legislation has passed in several other states and have received bipartisan support. Passing this legislation will ensure that Wisconsinites private transactions are not tracked and their data is not collected. This will further protect the second amendment rights of our citizens and their privacy.

Again, thank you for your time and consideration of this bill.

November 2, 2023

Chairman Callahan and Members of the Wisconsin Committee on Consumer Protection,

I write on behalf of the respective members of The NSSF – The Firearm Industry Trade Association in support of the Assembly Bill 468, The Wisconsin Second Amendment Privacy Act. NSSF represents over 10,000 member companies in the firearm industry across the United States. According to most recent data, our industry employs over 8,000 Wisconsinites and in 2022, it had an impact of over \$1.7 billion in the state.

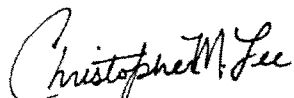
Writing in a 2018 article published in *The New York Times* titled “How Banks Could Control Gun Sales if Washington Won’t,” columnist Andrew Ross Sorkin put forth an “idea.” He asked, “What if the finance industry — credit card companies like Visa, Mastercard and American Express; credit card processors like First Data; and banks like JPMorgan Chase and Wells Fargo — were to effectively set new rules for the sales of guns in America?” Some anti-Second Amendment activists, elected officials, and institutions decided to run with that proposal. One idea that came out of this column was that purchases from firearm retailers could be tracked and monitored by using specific credit card transaction codes.

Four years later, in 2022, the International Organization for Standardization (ISO), a nonprofit based in Geneva, Switzerland, announced the creation of a new Merchant Category Code (MCC) for transactions involving firearms and ammunition. Transactions at firearm retailers have historically been coded as sporting goods, specialty retail, durable goods, and general merchandise. This new code would specifically indicate that a person is making a purchase from a firearm retail shop. It is important to note that these codes would apply to any purchase at a firearm retailer, whether it be firearms, ammunition, boots, clothing, bags, camping supplies, a tent or any other non-firearm-purchase. Notably, Bloomberg News — which has reported extensively on the proposal — wrote, “The payment network and its banking partners would have no idea if a gun-store customer is purchasing...a rifle or safety equipment.” Additionally, Visa’s CEO Al Kelly has admitted the new code proposal won’t be as effective in flagging purchases as antigun activists have claimed, saying, “If [Visa’s Chief Communications Officer] K.C. Kavanagh goes into a gun store and buys three thermoses and a tent, and you go in and buy a rifle and five rounds of ammunition, all I know is you both went to the same gun store... But I don’t know what you bought.”

There are, obviously, numerous privacy concerns surrounding the creation and implementation of MCCs to track purchases at firearm retailers. People often spend thousands of dollars at firearm retailers in preparation for hunting season, recreational shooting sports, or simply to exercise Second Amendment rights — as is guaranteed by the U.S. Constitution. If a firearm-specific MCC were to be put into place, any large purchase could be flagged as “suspicious” by the U.S. Treasury Department’s Financial Crimes Enforcement Network (FinCen) and transactions could be denied. Lawful transactions made by law-abiding gun owners could be reported to law enforcement. Gun owner watchlists could be created and shared with the Federal Government, which is especially troubling as the Federal Government, as you are likely aware, is prohibited from keeping a list of gun owners.

In 2022, more than 419,000 law-abiding Wisconsinites purchased a firearm, according to NSSF industry-adjusted National Instant Criminal Background Check System (NICS) verifications run by the FBI. In 2023, through September, nearly 272,000 have done so, including thousands of first-time gun buyers. The attempt to code credit card purchases at firearm retailers is an assault on the privacy and Second Amendment rights of every single gun owner in the state. The major credit card companies in the U.S. have rightly “paused” implementing a firearm retailer-specific MCC. To make certain this pause remains in place permanently, seven states have passed laws since March 2023 to ban the use of MCCs to track firearm retail purchases. This type of privacy legislation is also gaining momentum in Congress. Wisconsin can join that growing list by passing Assembly Bill 468 this session.

Respectfully,

A handwritten signature in black ink that reads "Christopher M. Lee". The signature is written in a cursive style with a large initial "C".

Christopher Lee

Director, Government Relations - State Affairs  
NSSF – The Firearm Industry Trade Association

NATIONAL RIFLE ASSOCIATION OF AMERICA

**INSTITUTE FOR LEGISLATIVE ACTION**

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**NRA**

November 1, 2023

Committee on Consumer Protection  
Room 15 West State Capitol  
PO Box 8952  
Madison, WI 53708

Dear Chairman Callahan:

I am writing to you regarding Assembly Bill 468 (AB 468) and the National Rifle Association's (NRA) support of this piece of legislation.

AB 468 prevents financial institutions and their agents from requiring the use of a firearms-specific merchant category code (MCC) to distinguish purchases at a Wisconsin firearms retailer, rather than using a general merchandise retailer code or a sporting good retailer code. It protects the privacy rights of lawful purchasers of firearms or ammunition by prohibiting the misuse of payment card issuers and processing systems to surveil, report or disclose these legal transactions. It also prohibits a financial institution from discriminating "against a firearms retailer by declining a lawful payment card transaction based solely on the assignment or nonassignment of the firearms code."

Gun control advocates successfully pressured activist banks on the International Organization for Standardization (ISO) to create a unique MCC for licensed firearms dealers. Now they are pushing state and federal lawmakers to require banks and credit card companies to use these MCCs to gather data on and track lawful firearms purchases. Since the federal government is prohibited by law from creating and maintaining a registry of gun owners, they are attempting to outsource this effort to the private financial sector.

So far in 2023, the states of Florida, Idaho, Mississippi, Montana, North Dakota, Texas and West Virginia have passed similar legislation.

Finally, we support the amendment to make a private right of action by individuals against a financial institution and the enforcement provisions provided to the Attorney General's office. For these reasons, and several others, the NRA supports the passage of AB 468.

Sincerely,

Brian Gosch  
State Director  
NRA-ILA

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Assembly Committee on Consumer Protection

Subject: Testimony Opposing AB468

Chairperson Callahan and Respected Committee Members,

My name is Nick Matuszewski, and I am writing to testify on behalf of WAVE Educational Fund, a nonprofit organization dedicated to promoting responsible firearm policies. As an advocate for public safety and practical firearm regulations, I respectfully express my opposition to Assembly Bill 468 (AB468). I urge the committee to review the potential implications of this bill, keeping in mind the following points:

First and foremost, merchant category codes are not a new system. Merchant category codes are an essential tool for preventing fraud and embezzlement, and for protecting consumers. Merchant category codes make it possible for credit cards to offer rewards on groceries and travel, or alert you about suspicious activity on your account. Nearly every other industry has a specific merchant category code (MCC), and gun stores should be expected to follow the same MCC regulations as all other businesses, which AB468 would prevent.

AB468 would hold firearm stores less accountable to consumers than bookstores, flower shops, or men's clothing stores are. One of the fundamental principles of a fair and just society is the idea that all businesses should be treated equally under the law. Applying consistent MCC regulations to all stores ensures that no business is given preferential treatment or subjected to discriminatory practices. AB468 suggests that gun stores are somehow different from other legitimate businesses. They are not.

Additionally, AB468 may place unnecessary burdens on financial institutions. It would limit their ability to distinguish different types of retailers in payment card transactions. Also, most other states will be using MCC 5723, the merchant category code that this bill attempts to ban. This means AB468 would add layers of red tape by requiring financial institutions to categorize consumer interests differently in Wisconsin than in most other states. This could potentially disincentivize credit card companies or financial institutions from serving Wisconsin gun stores. It is important to alleviate undue regulatory restrictions that hinder lawful commerce, including the sale of firearms. Careful consideration should be given to strike a reasonable balance between ensuring responsible business practices while maintaining the privacy and rights of law-abiding citizens.

Another consideration is the detrimental impact of AB468 on law enforcement efforts to prevent straw purchases and gun trafficking. We often hear conservative lawmakers call for implementation of our current laws, rather than new gun laws. AB468 would hinder implementation of our current laws against these dangerous and illegal practices. We can deter straw purchases without overly burdening legitimate firearm transactions to help safeguard our communities from the illegal acquisition and misuse of firearms.

In conclusion, I respectfully request the committee to vote against AB468, taking into account the American values of equal treatment, lawful commerce, and effective law enforcement in our society. By finding common ground and exploring alternative solutions, we can establish firearm regulations that balance the rights of individuals while ensuring public safety.

Sincerely,

Nick Matuszewski  
Policy & Strategic Partnerships Manager  
WAVE Educational Fund

Brady  
840 First St. NE Ste. 400  
Washington, DC 20002



Testimony of Anneliese Dickman, Senior Manager, Midwest Combating Crime Guns Initiative,  
Brady Campaign to Prevent Gun Violence  
Opposition to AB 468 Before the Assembly Committee on Consumer Protection  
Nov 2, 2023

Dear Chair Callahan, Vice-Chair Johnson, and Distinguished Members of the Assembly Committee on Consumer Protection,

Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike to end America's gun violence epidemic. Our organization today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife, Sarah, led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans across the country in the fight to prevent gun violence. There are evidence-based policy solutions that we know will help to prevent gun violence in Wisconsin.

The epidemic of gun violence reaches communities in Wisconsin every day.

Gun violence killed more than 48,000 people in America in 2021 - an average of more than 133 people each day<sup>1</sup> - a horrifying figure that does not come close to capturing the full scope of people impacted and traumatized. It is imperative that Wisconsin use every tool available to combat this public health epidemic. With the recent establishment of Merchant Category Codes (MCC) for firearms and ammunition sellers, we have an opportunity to utilize an incredible tool to prevent gun violence in Wisconsin before it happens; however, AB 468 would prohibit the use of MCC's for firearms businesses, stripping us of a crucial life saving tool. **In furtherance of our goal to reduce firearm violence across the state and in communities of color, Brady is respectfully in strong opposition to AB 487.**

***What Is An MCC Code And How Are They Used To Prevent Crime:***

MCC are four-digit numbers that identify the type of business processing a financial transaction, such as florists, grocery stores, and fast food restaurants. These codes are utilized for all sorts of purposes. Algorithms have been designed to use these codes to filter through millions of transactions and identify key financial behaviors, including potential criminal activity. In fact, currently financial institutions are required to submit Suspicious Activity Reports (SARs) to the federal government when they suspect a

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<sup>1</sup> Centers for Disease Control and Prevention. *WONDER Online Database, provisional data from 2021*. Accessed September 2023. Available at <https://wonder.cdc.gov/controller/saved/D176/D298F965>

purchase or purchases are reflective of crimes such as human trafficking, terrorism, and fraud.<sup>2</sup> For example, credit card purchases of multiple hotel rooms at a single time, combined with purchases at nearby fast food restaurants and clothing stores as well as coinciding cash deposits at banks, are strong indicators that someone may be engaged in human trafficking.

In September 2022, the International Organization for Standardization (ISO) established an MCC for firearms retailers, bringing them in line with virtually all other retailers around the world.<sup>3</sup> Previously, firearm sellers and manufacturers had been coded as sporting good stores or as “other.” The use of this new MCC can save lives by identifying potential mass shooters and gun traffickers.

Between 2007 and 2018, credit cards were used to finance at least eight major mass shootings including the two most deadly shootings in the United States: at the shooting at Pulse nightclub in Orlando, Florida where 49 people were killed and 50 more injured in June 2016, and at the Route 91 Harvest festival in Las Vegas that left 60 people dead and hundreds injured less than a year and a half later in October of 2017.<sup>4</sup> Mass shootings account for only a small proportion of shooting victims in the U.S. every year, but their frequency is growing. Furthermore, the profound psychological harm and loss of life, coupled with the broad, varied, long-lasting, and under-studied ripple effects of these events, make it abundantly clear that mass shootings not only devastate survivors, their families and friends, and their communities, but have changed for the worse the psyche of the country as a whole. The use of this code could allow financial institutions to identify suspicious transactions and alert law enforcement *before* a mass shooting event and potentially prevent these types of tragedies.

Additionally, this code could allow financial institutions to identify and report to law enforcement spending patterns that suggest unlawful straw purchasing and gun trafficking. Doing so would equip law enforcement to stop trafficking rings from flooding communities with firearms for profit. Far too many Wisconsonites, especially Black and Brown ones, bear the consequences of gun trafficking rings: either directly, through chronic gun violence, or indirectly through increased suspicion and surveillance from law enforcement, stigma, and trauma. The effect of access to trafficked weapons in these communities, primarily Black and Brown communities, cannot be understated. Based on data from the Centers for Disease Control: In Wisconsin, Black people are 36.6 times more likely than White people to be victims of firearm homicide, and Black men are 49.3 times as likely as their White counterparts to be victims of firearm homicide.<sup>5</sup> In the face of such devastating gun violence, not only from civilians but also from law enforcement, Black and Brown communities have demanded a new approach to public safety that stops violence before it starts and relies on holistic community rather than brute force. The MCC code could be a part of that change. The MCC code would not only help prevent violence before it happens but also equip law enforcement to change tactics. Rather than casting entire communities and neighborhoods with

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<sup>2</sup> Office of the Comptroller of the Currency. *Suspicious Activity Reports (SAR)*. United States Department of the Treasury. available at <https://www OCC.treas.gov/topics/supervision-and-examination/bank-operations/financial-crime/suspicious-activity-reports/index-suspicious-activity-reports.html>

<sup>3</sup> Mrinmay Day, *Payments giants to apply new code identifying sales at U.S. gun stores*, Reuters, (Sept. 10, 2022), available at <https://www.reuters.com/business/visa-apply-new-code-identifying-sales-us-gun-stores-2022-09-11/>

<sup>4</sup> Andrew Ross Sorkin, *How Banks Unwittingly Finance Mass Shootings*, The New York Times, (Dec. 24, 2022), available at <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>

<sup>5</sup> Centers for Disease Control and Prevention (CDC), *WISQARS injury data*, <https://www.cdc.gov/injury/wisqars/index.html>



suspicion, the MCC code would allow law enforcement to better pinpoint which stores and which trafficking rings are facilitating and profiting from gun violence.

Unfortunately, because of bills like the one at issue here today, the major credit card companies have since announced plans to pause the implementation of these MCCs for gun dealers. This precludes financial institutions from setting up the systems needed to identify potential mass shooters and firearms traffickers and denies law enforcement critical information that could be used to prevent such gun violence. Importantly, the implementation of the MCC does not create a registry, it simply ensures that banks to employ the same practices already in use across all other retail sectors; **the use of MCC's for gun and ammunition dealers does not infringe upon anyone's Second Amendment rights.**

***Why We Oppose This Bill:***

By prohibiting the use of MCC's for firearms, AB 468 would offer special protections to firearms dealers by precluding the use of the officially issued MCC. To be clear, no other merchant category code is barred from being used in Wisconsin or in any other state. Wisconsinites are dying from gun violence at alarming rates, and any movement to restrict resources that could make communities safer is a step in the wrong direction.

***Conclusion:***

Prohibiting the use of additional tools in identifying and stopping gun traffickers and potential mass shooters will make Wisconsin less safe. We need courageous action from all our leaders so law enforcement have the tools necessary to fight gun violence and to make everyone in Wisconsin safer. For these reasons, **Brady respectfully opposes AB 468.**

Sincerely,  
Anneliese Dickman