SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 2269

(SENATE AUTHORS: LUCERO)

DATE	D-PG	OFFICIAL STATUS
03/06/2025	669	Introduction and first reading Referred to Commerce and Consumer Protection

A bill for an act

relating to commerce; regulating certain activities by social media platforms; providing antitrust protections; prohibiting certain unfair and deceptive practices; providing penalties; proposing coding for new law in Minnesota Statutes, chapters 211B; 325D; 325M.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **LEGISLATIVE PURPOSE; FINDINGS.**

The legislature of the state of Minnesota finds:

(1) social media platforms represent an extraordinary advance in communication technology for Minnesota citizens;

(2) users should have exclusive control over personal information related to social media platforms;

(3) Minnesota citizens increasingly rely on social media platforms to express political and other opinions;

(4) social media platforms have transformed into the new public town square;

(5) social media platforms have become as important for conveying public opinion as public utilities are for supporting modern society;

(6) social media platforms hold a unique place in preserving first amendment protections for all Minnesota citizens and should be treated similarly to common carriers;

(7) social media platforms that unfairly censor, shadow ban, deplatform, or apply post-prioritization algorithms to Minnesota political candidates, Minnesota users, or Minnesota citizens are not acting in good faith;

(8) social media platforms should not take any action in bad faith to restrict access or availability to Minnesota citizens;

(9) social media platforms have unfairly censored, shadow banned, deplatformed, and applied post-prioritization algorithms to Minnesota citizens;

(10) Minnesota has a substantial interest in protecting residents from inconsistent and unfair actions by social media; and

(11) Minnesota must vigorously enforce state law to protect Minnesota citizens.

Sec. 2. **[211B.40] SOCIAL MEDIA DEPLATFORMING; POLITICAL CANDIDATES.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Deplatform" has the meaning given in section 325M.35, subdivision 1, paragraph (e).

(c) "Social media platform" has the meaning given in section 325M.35, subdivision 1, paragraph (i).

(d) "User" has the meaning given in section 325M.35, subdivision 1, paragraph (j).

Subd. 2. **Deplatforming political candidates prohibited.** A social media platform is prohibited from willfully deplatforming a candidate for office who is known by the social media platform to be a candidate. The prohibition under this subdivision begins on the date of qualification and ends on the date of the election or the date the candidate ceases to be a candidate. A social media platform must provide each user a method by which the user may be identified as a qualified candidate and which provides sufficient information to allow the social media platform to confirm the user's qualification by reviewing the secretary of state's website or the website of the local supervisor of elections.

Subd. 3. **Penalty.** If the secretary of state determines a social media platform has violated subdivision 2, in addition to the remedies provided in sections 10A.34 and 211B.19, the social media platform may be fined $250,000 per day for a candidate for statewide office and $25,000 per day for a candidate for other offices.

Subd. 4. **Free advertising.** A social media platform that willfully provides free advertising for a candidate must inform the candidate of the in-kind contribution. Posts, content, material, and comments by candidates which are shown on the platform in the same or similar way as other users' posts, content, material, and comments are not considered free advertising.

Subd. 5. **Enforcement.** Notwithstanding any law to the contrary, this section may only be enforced to the extent not inconsistent with federal law and United States Code, title 47, section 230(e)(3).

Sec. 3. **[325D.75] ANTITRUST VIOLATIONS; DENIAL OR REVOCATION OF THE RIGHT TO TRANSACT BUSINESS WITH PUBLIC ENTITIES; DENIAL OF ECONOMIC BENEFITS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Affiliate" means: (1) a predecessor or successor of a person convicted of or held civilly liable for an antitrust violation; or (2) an entity under the control of any natural person who is active in the management of the entity that has been convicted of or held civilly liable for an antitrust violation. Affiliate includes the officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, is a prima facie case that one person controls another person. Affiliate also includes a person who knowingly enters into a joint venture with a person who has violated an antitrust law during the preceding 36 months.

(c) "Antitrust violation" means any failure to comply with a state or federal antitrust law as determined in a civil or criminal proceeding brought by the attorney general, a state attorney, a similar body or agency of another state, the Federal Trade Commission, or the United States Department of Justice.

(d) "Antitrust violator vendor list" means the list required under subdivision 3, paragraph (b).

(e) "Economic incentives" means state grants, cash grants, tax exemptions, tax refunds, tax credits, state funds, and other state incentives under chapter 116J or administered under chapter 116O by Enterprise Minnesota, Inc.

(f) "Person" means a natural person or an entity organized under the laws of any state or of the United States that operates as a social media platform, as defined in section 325M.35, subdivision 1, paragraph (i), with the legal power to enter into a binding contract and that bids or applies to bid on contracts let by a public entity, or otherwise transacts or applies to transact business with a public entity. Person includes the officers, directors,

executives, partners, shareholders, employees, members, and agents who are active in the management of an entity.

(g) "Public entity" means the state of Minnesota and any of the state's departments or agencies.

Subd. 2. **Prohibitions.** (a) A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation is prohibited from: (1) submitting a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; (2) submitting a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; (3) submitting a bid, proposal, or reply on new leases of real property to a public entity; (4) being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and (5) transacting new business with a public entity.

(b) A public entity is prohibited from accepting a bid, proposal, or reply from, awarding a new contract to, or transacting new business with a person or affiliate on the antitrust violator vendor list unless the person or affiliate has been removed from the list pursuant to subdivision 3, paragraph (e).

(c) This subdivision does not apply to contracts that were awarded or business transactions that began before a person or an affiliate was placed on the antitrust violator vendor list or before July 1, 2025, whichever date occurs later.

Subd. 3. **Contracting requirements.** (a) Beginning July 1, 2025, all formal solicitations, informal solicitations, requests for bid, and requests for proposals, as defined under section 16C.02, and any contract, as defined under section 16C.02, subdivision 6, must contain a statement informing persons of the requirements under subdivision 2, paragraph (a).

(b) The department must maintain an antitrust violator vendor list of the names and addresses of the persons or affiliates who have been disqualified from the public contracting and purchasing process under this section. The department must electronically publish the initial antitrust violator vendor list on January 1, 2026, and must update and electronically publish the list quarterly thereafter. Notwithstanding this paragraph, a person or an affiliate disqualified from the public contracting and purchasing process pursuant to this section is disqualified as of the date the department enters the final order.

(c)(1) After receiving notice of a judgment, sentence, or order from any source that a person was convicted or held civilly liable for an antitrust violation and after the department has investigated the information and verified both the judgment, sentence, or order and the

identity of the person named in the documentation, the department must immediately notify the person or affiliate in writing of the department's intent to place the name of that person or affiliate on the antitrust violator vendor list and of the person's or affiliate's right to a hearing, the procedure that must be followed, and the applicable time requirements. If the person or affiliate does not request a hearing, the department must enter a final order placing the name of the person or affiliate on the antitrust violator vendor list. A person or affiliate may be placed on the antitrust violator vendor list only after the department has provided the person or affiliate with a notice of intent.

(2) Within 21 days after receipt of the notice of intent, the person or affiliate may file a petition for a formal hearing under section 14.57 to determine whether good cause has been shown by the department and whether placing the person or affiliate on the antitrust violator vendor list is in the public interest. A person or an affiliate is prohibited from filing a petition for an informal hearing under section 14.59. The procedures of chapter 14 apply to any formal hearing under this paragraph, except that within 30 days after the formal hearing or receipt of the hearing transcript, whichever is later, the administrative law judge must enter a final order that consists of findings of fact, conclusions of law, interpretation of agency rules, and any other information required by law or rule to be contained in the final order. The final order must direct the department to place or not place the person or affiliate on the antitrust violator vendor list. The final order of the administrative law judge is final agency action for purposes of sections 14.63 to 14.69.

(3) When determining whether placing a person or an affiliate on the antitrust violator vendor list under this paragraph is in the public interest, the administrative law judge must consider the following factors:

(i) whether the person or affiliate was convicted or held civilly liable for an antitrust violation;

(ii) the nature and details of the antitrust violation;

(iii) the degree of culpability of the person or affiliate proposed to be placed on the antitrust violator vendor list;

(iv) reinstatement or clemency in any jurisdiction in relation to the antitrust violation at issue in the proceeding;

(v) the needs of public entities for additional competition in the procurement of goods and services in the public entities' respective markets; and

(vi) the effect of the antitrust violations on Minnesota citizens.

(4) After the person or affiliate requests a formal hearing, the burden shifts to the department to prove that placing the person or affiliate to whom the department has given notice under this paragraph on the antitrust violator vendor list is in the public interest. Proof that a person was convicted or was held civilly liable or that an entity is an affiliate of the person constitutes a prima facie case that placing the person or affiliate to whom the department has given notice on the antitrust violator vendor list is in the public interest. Status as an affiliate must be proven by clear and convincing evidence. Unless the administrative law judge determines that the person was convicted or that the person was civilly liable or is an affiliate of the person, that person or affiliate may not be placed on the antitrust violator vendor list.

(5) Any person or affiliate who has been notified by the department of the department's intent to place the person's name on the antitrust violator vendor list may offer evidence on any relevant issue. An affidavit alone does not constitute competent substantial evidence that the person has not been convicted or is not an affiliate of a person convicted or held civilly liable. Upon establishment of a prima facie case that placing the person or affiliate to whom the department has given notice on the antitrust violator vendor list is in the public interest, the person or affiliate may prove by a preponderance of the evidence that placing the person on the antitrust violator vendor list based upon evidence addressing the factors under clause (3) is not in the public interest.

(d)(1) Upon receipt of information or an indictment from any source that a person has been charged with or accused of violating any state or federal antitrust law in a civil or criminal proceeding, including a civil investigative demand, brought by the attorney general, a state attorney, the Federal Trade Commission, or the United States Department of Justice on or after July 1, 2025, the attorney general must determine whether there is probable cause that a person has likely violated the underlying antitrust laws, which justifies temporary placement of the person on the antitrust violator vendor list until the proceeding has concluded.

(2) If the attorney general determines probable cause exists, the attorney general must notify the person in writing of the attorney general's intent to temporarily place the person's name on the antitrust violator vendor list and of the person's right to a hearing, the procedure that must be followed, and the applicable time requirements. If the person does not request a hearing, the attorney general must enter a final order temporarily placing the name of the person on the antitrust violator vendor list. A person may be placed on the antitrust violator vendor list only after being provided with a notice of intent from the attorney general.

(3) Within 21 days after receipt of the notice of intent, the person may file a petition for a formal hearing under sections 14.57 to 14.62 to determine whether temporarily placing the person on the antitrust violator vendor list is in the public interest. The procedures under chapter 14 apply to any formal hearing under this paragraph.

(4) When determining whether placing a person on the antitrust violator vendor list under this paragraph is in the public interest, the administrative law judge must consider the following factors:

(i) the likelihood the person is convicted or held civilly liable for the antitrust violation;

(ii) the nature and details of the antitrust violation;

(iii) the degree of culpability of the person proposed to be placed on the antitrust violator vendor list;

(iv) the needs of public entities for additional competition in the procurement of goods and services in the public entities' respective markets; and

(v) the effect of the antitrust violations on Minnesota citizens.

(5) The attorney general has the burden to prove that temporarily placing the person to whom the attorney general has given notice under this paragraph on the antitrust violator vendor list is in the public interest. Unless the administrative law judge determines that it is in the public interest to temporarily place a person on the antitrust violator vendor list, that person shall not be placed on the antitrust violator vendor list.

(6) This paragraph does not apply to affiliates.

(e)(1) A person or an affiliate may be removed from the antitrust violator vendor list subject to terms and conditions prescribed by the administrative law judge upon a determination that removal is in the public interest. In determining whether removal is in the public interest, the administrative law judge must consider any relevant factors, including but not limited to the factors identified in paragraph (c), clause (3). Upon proof that a person was found not guilty or not civilly liable, the antitrust violation case was dismissed, the court entered a finding in the person's favor, the person's conviction or determination of liability has been reversed on appeal, or the person has been pardoned, the administrative law judge must determine that removal of the person or an affiliate of that person from the antitrust violator vendor list is in the public interest. A person or an affiliate on the antitrust violator vendor list may petition for removal from the list no sooner than six months after the date a final order is entered pursuant to this section but may petition for removal at any time if the petition is based upon a reversal of the conviction or liability on appellate review

or pardon. The petition must be filed with the department, and the proceeding must be conducted pursuant to the procedures and requirements of this subdivision.

(2) If the petition for removal is denied, the person or affiliate may not petition for another hearing on removal for a period of nine months after the date of denial unless the petition is based upon a reversal of the conviction on appellate review or a pardon. The department may petition for removal before the expiration of the period if, in the department's discretion, the department determines that removal is in the public interest.

Subd. 4. **Effect of contracts.** The conviction of a person or a person being held civilly liable for an antitrust violation, or placement on the antitrust violator vendor list, does not affect any rights or obligations under any contract, franchise, or other binding agreement that predates the conviction, finding of civil liability, or placement on the antitrust violator vendor list.

Subd. 5. **Disqualification; limitation.** A person who has been placed on the antitrust violator vendor list is not a qualified applicant for economic incentives under chapter 116J and the person is not qualified to receive economic incentives under chapter 116J. This subdivision does not apply to economic incentives that are awarded before a person is placed on the antitrust violator vendor list or before July 1, 2025.

Subd. 6. **Applicability; exception.** This section does not apply to:

(1) an activity regulated by the Public Utilities Commission;

(2) the purchase of goods or services made by a public entity from the Department of Corrections; or

(3) a contract with a public entity to provide goods or services for emergency response efforts related to a state of emergency declaration issued by the governor.

Subd. 7. **Enforcement.** This section may only be enforced to the extent not inconsistent with federal law and notwithstanding any other provision of state law.

Sec. 4. **[325M.35] UNLAWFUL ACTS AND PRACTICES BY SOCIAL MEDIA PLATFORMS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meaning given.

(b) "Algorithm" means a mathematical set of rules that specifies how a group of data behaves and that assists in ranking search results and maintaining order or that is used in

sorting or ranking content or material based on relevancy or other factors instead of using published time or chronological order of such content or material.

(c) "Censor" means any action taken by a social media platform to delete, regulate, restrict, edit, alter, inhibit the publication or republication of, suspend a right to post, remove, or post an addendum to any content or material posted by a user. Censor also means actions to inhibit the ability of a user to be viewable by or to interact with another user of the social media platform.

(d) "Department" means the Department of Commerce.

(e) "Deplatform" means the action or practice by a social media platform to permanently delete or ban a user or to temporarily delete or ban a user from the social media platform for more than 14 days.

(f) "Journalistic enterprise" means an entity doing business in Minnesota that:

(1) publishes in excess of 100,000 words available online with at least 50,000 paid subscribers or 100,000 monthly active users;

(2) publishes 100 hours of audio or video available online with at least 100,000,000 viewers annually;

(3) operates a cable channel that provides more than 40 hours of content per week to more than 100,000 cable television subscribers; or

(4) operates under a broadcast license issued by the Federal Communications Commission.

(g) "Post-prioritization" means action by a social media platform to place, feature, or prioritize certain content or material ahead of, below, or in a more or less prominent position than others in a newsfeed, a feed, a view, or in search results. Post-prioritization does not include post-prioritization of content and material of a third party, including other users, based on payments by that third party, to the social media platform.

(h) "Shadow ban" means action by a social media platform, through any means, whether the action is determined by a natural person or an algorithm, to limit or eliminate the exposure of a user or content or material posted by a user to other users of the social media platform. Shadow ban includes acts of shadow banning by a social media platform which are not readily apparent to a user.

(i) "Social media platform" means an information service, system, Internet search engine, or access software provider that:

(1) provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site;

(2) operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;

(3) does business in Minnesota; and

(4) satisfies at least one of the following thresholds:

(i) has annual gross revenues in excess of $100,000,000, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index; or

(ii) has at least 100,000,000 monthly individual platform participants globally.

(j) "User" means a person who resides or is domiciled in Minnesota and who has an account on a social media platform, regardless of whether the person posts or has posted content or material to the social media platform.

Subd. 2. **Requirements; prohibitions.** (a) A social media platform that fails to comply with this subdivision commits an unfair or deceptive act or practice.

(b) A social media platform must publish the standards, including detailed definitions, it uses or has used to determine how to censor, deplatform, and shadow ban.

(c) A social media platform must apply censorship, deplatforming, and shadow banning standards in a consistent manner among the social media platform's users on the platform.

(d) A social media platform must inform each user about any changes to the social media platform's user rules, terms, and agreements before implementing the changes. A social media platform is prohibited from making changes to the social media platform's rules, terms, and agreements more than once every 30 days.

(e) A social media platform is prohibited from censoring or shadow banning a user's content or material, or from deplatforming a user from the social media platform:

(1) without notifying the user who posted or attempted to post the content or material; or

(2) in any manner that violates this section.

(f) A social media platform must:

(1) provide a mechanism that allows a user to request the number of other individual platform participants who were provided or shown the user's content or posts; and

(2) provide, upon request, a user with the number of other individual platform participants who were provided or shown content or posts.

(g) A social media platform must:

(1) categorize algorithms used for post-prioritization and shadow banning; and

(2) allow a user to opt out of post-prioritization and shadow banning algorithm categories to allow sequential or chronological posts and content.

(h) A social media platform must provide users with an annual notice on the use of algorithms for post-prioritization and shadow banning, and must annually reoffer the opt-out opportunity in paragraph (g), clause (2).

(i) A social media platform must not apply or use post-prioritization or shadow banning algorithms for content and material posted by or about a user who is known by the social media platform to be a candidate, as defined in section 211B.01, subdivision 3, beginning on the date of qualification and ending on the date of the election or the date the candidate ceases to be a candidate. Post-prioritization of certain content or material from or about a candidate for office based on payments to the social media platform by the candidate for office or a third party is not a violation of this paragraph. A social media platform must provide each user a method by which the user may be identified as a qualified candidate and which provides sufficient information to allow the social media platform to confirm the user's qualification by reviewing the secretary of state's website or the website of the local supervisor of elections.

(j) A social media platform must allow a user who has been deplatformed to access or retrieve all of the user's information, content, material, and data for at least 60 days after the user receives the notice required under paragraph (e), clause (1).

(k) A social media platform is prohibited from taking any action to censor, deplatform, or shadow ban a journalistic enterprise based on the content of the journalistic enterprise's publication or broadcast. Post-prioritization of certain journalistic enterprise content based on payments to the social media platform by the journalistic enterprise is not a violation of this paragraph. This paragraph does not apply if the content or material is obscene, as defined under section 617.241, subdivision 1, paragraph (a).

Subd. 3. **Notification; requirements.** For purposes of subdivision 2, paragraph (e), clause (1), a notification must:

(1) be in writing;

(2) be delivered via electronic mail or direct electronic notification to the user within seven days after the date the censoring action occurs;

(3) include a thorough rationale explaining the reason why the social media platform censored the user; and

(4) include a precise and thorough explanation of how the social media platform became aware of the censored content or material, including a thorough explanation of the algorithms used, if any, to identify or flag the user's content or material as objectionable.

Subd. 4. **Notification; exception.** Notwithstanding subdivision 2, paragraph (e), clause (1), and subdivision 3, a social media platform is not required to notify a user if the censored content or material is obscene, as defined in section 617.241, subdivision 1, paragraph (a).

Subd. 5. **Investigations.** If the department, by a department inquiry or as a result of a complaint, suspects that a violation of this section is imminent, occurring, or has occurred, the department may investigate the suspected violation as provided by and consistent with this section. Based on the investigation, the department may bring a civil or administrative action under this section. For the purpose of bringing an action pursuant to this section, sections 325D.45 and 325D.46 do not apply.

Subd. 6. **Private cause of action.** A user may bring a private cause of action only for violations of subdivision 2, paragraph (c) or (e), clause (1). In a private cause of action brought under subdivision 2, paragraph (c) or (e), clause (1), the court may award the following remedies to the user:

(1) up to $100,000 in statutory damages per proven claim;

(2) actual damages;

(3) if aggravating factors are present, punitive damages;

(4) other forms of equitable relief, including injunctive relief; and

(5) if the user was deplatformed in violation of subdivision 2, paragraph (c), costs and reasonable attorney fees.

Subd. 7. **Violations; jurisdiction.** For purposes of bringing an action under subdivisions 5 and 6, each failure to comply with the individual provisions of subdivision 2 is a separate violation, act, or practice. For purposes of bringing an action under subdivisions 5 and 6, a social media platform that censors, shadow bans, deplatforms, or applies post-prioritization algorithms to candidates and users in Minnesota is conclusively presumed to be both engaged in substantial and not isolated activities within Minnesota and operating, conducting,

engaging in, or carrying on a business, and doing business in Minnesota, and is subject to the jurisdiction of the courts of Minnesota.

Subd. 8. **Investigative powers.** In an investigation by the department into alleged violations of this section, the department's investigative powers include but are not limited to the ability to subpoena any algorithm used by a social media platform related to any alleged violation.

Subd. 9. **Enforcement.** Notwithstanding any other law to the contrary, this section may be enforced only to the extent not inconsistent with federal law and United States Code, title 47, section 230(e)(3).

Sec. 5. **SEVERABILITY.**

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application. Minnesota Statutes, sections 211B.40, 325D.75, and 325M.35, are severable.