

## CHAPTER 568—H.F.No. 2232

*An act relating to cable television; exempting certain small cable systems; requiring new franchises to be granted on same terms as original franchise; prohibiting utilities from giving unfair preference to affiliated companies that provide cable television service; amending Minnesota Statutes 1986, sections 238.02, subdivision 3; and 238.08, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 238.*

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

Section 1. Minnesota Statutes 1986, section 238.02, subdivision 3, is amended to read:

Subd. 3. "Cable communications system" means a system which operates the service of receiving and amplifying programs broadcast by one or more television or radio stations and other programs originated by a cable communications company or by another party, and distributing those programs by wire, cable, microwave or other means, whether the means are owned or leased, to persons who subscribe to the service. This definition does not include:

(a) a system which serves fewer than 50 subscribers or a system which serves more than 50 but fewer than 1,000 subscribers if the governing bodies of all political subdivisions served by the system, vote, by resolution, to remove the system from the provisions of this chapter. No part of a system, nor any area within the municipality served by the system, may be removed from the provisions of this chapter if more than 1,000 subscribers are served by the system. Any system which serves more than 50 but fewer than 1,000 subscribers that has been removed from the provisions of this chapter shall be returned to the provisions of this chapter if the governing bodies of 50 percent or more of the political subdivisions served by the system vote, by resolution in favor of the return;

(b) a master antenna television system;

(c) a specialized closed-circuit system which does not use the public rights-of-way for the construction of its physical plant; and

(d) a translator system which receives and rebroadcasts over-the-air signals.

Sec. 2. Minnesota Statutes 1986, section 238.08, subdivision 1, is amended to read:

Subdivision 1. (a) A municipality shall require a franchise or extension permit of any cable communications system providing service within the municipality.

(b) No municipality shall grant an additional franchise for cable service for an area included in an existing franchise on terms and conditions more favorable or less burdensome than those in the existing franchise pertaining to: (1) the area served; (2) public, educational, or governmental access requirements; or (3) franchise fees. The provisions of this paragraph shall not apply when the area in which the additional franchise is being sought is not actually being served by any existing cable communications company holding a franchise for the area. Nothing in this paragraph prevents a municipality from imposing additional terms and conditions on any additional franchises.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 3. **[238.18] UNFAIR PREFERENCE.**

Subdivision 1. DEFINITION. (a) For the purpose of this section the following terms have the meanings given them.

(b) "Affiliated company" means a person, company, corporation, or other entity in which the utility has an affiliated interest as defined under section 216B.48, subdivision 1.

(c) "Utility" means a person, corporation, or other entity that operates, maintains, or controls equipment or facilities in this state for furnishing at retail electric service to the public.

Subd. 2. UNFAIR PREFERENCE. No utility may make or give a preference or advantage to:

(1) a person as an accommodation or inducement to contract with or take cable television service from an affiliated company if the affiliated company provides cable television service within a part of the service area of the utility; or

(2) an affiliated company that provides cable television service to persons within a part of the service area of the utility over an entity that is not an affiliated company that also provides cable television service to persons within the service area of the utility.

Subd. 3. REMEDIES. On a finding by a court of competent jurisdiction that either a utility or an affiliated company of the utility providing cable television service within a part of the service area of the utility has violated a provision of this section, the court may grant injunctive relief and may award actual damages to an entity that is not an affiliated company of a utility providing cable television service to persons within a part of the service area of the utility. In an action under this section, the court may award the costs of the action, including reasonable attorney fees, to the prevailing party.

Approved April 20, 1988

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**CHAPTER 569—H.F.No. 2554**

*An act relating to education; allowing noncontiguous school districts to consolidate; amending Minnesota Statutes 1986, section 122.23, subdivision 1.*

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

Section 1. Minnesota Statutes 1986, section 122.23, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.