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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1861

02/16/2023

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The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to civil law; prohibiting online content discrimination; authorizing civil
1.3 action; proposing coding for new law as Minnesota Statutes, chapter 363B.

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

1.5 Section 1. 363B.001 ONLINE CONTENT DISCRIMINATION PROHIBITED.

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

1.8 (b) "Algorithm" means a set of instructions designed to perform a specific task and
1.9 implemented by a computer.

1.10 (c) "Interactive computer service" means any information service, system, or access
1.11 software provider that provides or enables computer access by multiple users to a computer
1.12 server, including specifically a service or system that provides access to the Internet and
1.13 such systems operated or services offered by libraries or educational institutions. Interactive
1.14 computer services include social media platforms or websites.

1.15 (d) "Owner," "operator," and "provider" include any agents or third parties designated
1.16 to act on behalf of the owner, operator, or provider.

1.17 (e) "Political ideology" includes a set of opinions related to politics, economics,
1.18 government, social movements, and ethics.

1.19 (f) "Restrict" includes suspending or canceling a user's account, deleting a user's content,
1.20 or limiting or partially limiting access to a user's account or content regardless of whether
1.21 the limitation is readily apparent to the user.

2.1 (g) "Sex" has the meaning given in section 363A.03, subdivision 42.

2.2 (h) "Religious beliefs" include opinions on religion, faith, spirituality, faith-based
2.3 practices, and religious texts.

2.4 Subd. 2. **Discrimination prohibited.** It is an unlawful discriminatory practice for an
2.5 owner, operator, or provider of an interactive computer service to restrict, either directly,
2.6 manually, or through the use of an algorithm, a user's account or content based on race, sex,
2.7 political ideology, or religious beliefs.

2.8 Subd. 3. **Notice required.** An owner, operator, or provider of interactive computer
2.9 services who restricts a user's account or content must provide a written notice to the user
2.10 within 24 hours of taking the action. The notice must specify the authority and basis for the
2.11 restriction.

2.12 Subd. 4. **Private civil action authorized.** (a) The following users of an interactive
2.13 computer service may bring an action in district court seeking damages as provided in
2.14 subdivision 5:

2.15 (1) a user injured by a violation of subdivision 2; or

2.16 (2) a user who reasonably otherwise would have received or viewed another user's
2.17 content but for a violation of subdivision 2.

2.18 (b) An action under this section must commence within two years of the date the violation
2.19 was discovered or reasonably should have been discovered by the plaintiff.

2.20 (c) The plaintiff in an action brought under this section shall have the right to a jury trial.

2.21 Subd. 5. **Damages; injunctive relief.** (a) The court shall award the following damages
2.22 to a prevailing plaintiff against an owner, operator, or provider of an interactive computer
2.23 service found liable under this section:

2.24 (1) actual damages;

2.25 (2) statutory damages of \$50,000 per violation;

2.26 (3) statutory damages of \$50,000 per instance of failure to provide timely notice under
2.27 subdivision 3; and

2.28 (4) court costs, fees, and reasonable attorney fees.

2.29 (b) The court may award injunctive relief, as appropriate.

3.1 Subd. 6. **Attorney general.** The attorney general is authorized to investigate alleged
3.2 violations of this section and recover damages on behalf of users entitled to relief under this
3.3 section, as well as injunctive relief on behalf of the state.

3.4 Subd. 7. **Personal jurisdiction; venue.** (a) As to any cause of action arising under this
3.5 section, the district court may exercise personal jurisdiction over a nonresident defendant
3.6 in the same manner as if the defendant were a person domiciled in this state if:

3.7 (1) the defendant makes the interactive computer service available to residents of this
3.8 state; or

3.9 (2) enters into agreements with residents of this state for the provision of interactive
3.10 computer services.

3.11 (b) A cause of action arising under this section may be brought in the county in which
3.12 the plaintiff resides.

3.13 Subd. 8. **Good faith and fair dealing.** In any terms of service or other agreement
3.14 governing the provision of interactive computer services to a user, an implied covenant of
3.15 good faith and fair dealing bars the owner, operator, or provider of interactive computer
3.16 services from restricting a user or a user's content as provided under subdivision 2.

3.17 Subd. 9. **Construction with other law or agreement; exemption.** (a) The remedies in
3.18 this section are cumulative and do not restrict any other remedy provided by law.

3.19 (b) Any agreement or provision in an agreement waiving or limiting the rights, remedies,
3.20 and duties provided in this section is deemed void and against public policy.

3.21 (c) This section does not apply to interactive computer services with less than 10,000,000
3.22 users.

3.23 Subd. 10. **Severability.** If any provision of this section is found to be unconstitutional
3.24 or otherwise void, the remaining provisions of this act remain valid.

3.25 **EFFECTIVE DATE.** This section is effective July 1, 2023, and applies to causes of
3.26 action accruing on or after that date.