

S.F. No. 1253 – Online Content Discrimination Prohibited

Author: Senator Roger C. Chamberlain

Prepared by: Priyanka Premo, Senate Counsel (651/296-3317)

Date: February 26, 2021

Overview

S.F. 1253 prohibits interactive computer services from discriminating against a user based on race, sex, political ideology, or religious beliefs either directly or using an algorithm. This bill authorizes the restricted user or someone who would have otherwise viewed or received the restricted content to bring a civil action against an interactive computer service.

Summary

Subdivision 1. Definitions. Defines “algorithm,” “interactive computer service,” “owner,” “operator,” “provider,” “political ideology,” “restrict,” “sex,” and “religious beliefs.”

Subd. 2. Discrimination prohibited. It is an unlawful discriminatory practice for an owner, operator, or provider of an interactive computer service to restrict a user’s account or content based on race, sex, political ideology, or religious beliefs.

Subd. 3. Notice required. An owner, operator, or provider of interactive computer services must provide written notice to a user within 24 hours of restricting the user’s account or content.

Subd. 4. Private civil action authorized. A user who was the subject of a discriminatory restriction and a user who would have otherwise reasonably viewed or received content but for the discriminatory restriction may bring a civil action against the interactive computer service. The action must commence within two years of when the discriminatory restriction was discovered or should have been reasonably discovered. The plaintiff is entitled to a jury trial.

Subd. 5. Damages; injunctive relief. The court shall award damages as follows: actual damages; statutory damages of \$50,000 per discriminatory restriction; \$50,000 per instance of failure to provide timely notice of a restriction; court costs, fees, and reasonable attorney fees; and injunctive relief.

Subd. 6. Attorney general. The attorney general may investigate violations of this section, recover damages on behalf of users, and obtain injunctive relief.

Subd. 7 Personal jurisdiction; venue. A court has personal jurisdiction over a nonresident defendant if the defendant makes the interactive computer services available to Minnesota residents or enters into agreements with Minnesota residents. An action may be brought in the county in which the plaintiff resides.

Subd. 8. Good faith and fair dealing. In any terms of services or other agreements governing the provision of interactive computer services, an implied covenant of good faith and fair dealing bars the owner, operator, or provider of the interactive computer services from restricting a user's content or account in a discriminatory manner.

Subd. 9. Construction with other law or agreement; exemption. This section does not limit other available remedies. Any provision in an agreement limiting or waiving the rights, remedies, and duties in this section is void. This section does not apply to interactive computer services with less than 10 million users.

Sub. 10. Severability. This section is severable in the event provisions are found unconstitutional or otherwise void.

Effective date. This section is effective July 1, 2021 and applies to causes of actions accruing on or after that date.