

HOUSE BILL 437

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO TRADE PRACTICES; ENACTING THE RIGHT TO BE FORGOTTEN ACT; REQUIRING CERTAIN PERSONS THAT PROVIDE PUBLIC INFORMATION TO REMOVE DAMAGING INFORMATION UPON REQUEST; PROVIDING A CAUSE OF ACTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--This act may be cited as the "Right to Be Forgotten Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the Right to Be Forgotten Act:

A. "inaccurate, irrelevant, inadequate or excessive" means content relating to an individual that, after a significant lapse in time from its first publication, is no longer material to current public debate or discourse when considered in light of the demonstrable harm that the

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underscored material = new
[bracketed material] = delete

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[bracketed material] = delete

1 information, article or other content is causing to the
2 individual's professional, financial or personal reputation or
3 other interest; but does not include content related to
4 criminal convictions, legal matters relating to violence in
5 which the individual played a substantial role or content that
6 is of significant current public interest; and

7 B. "publisher" means a search engine, indexer,
8 publisher or other person that makes information about an
9 individual available, on or through the internet or other
10 widely used computer-based network, program or service.

11 SECTION 3. [NEW MATERIAL] REMOVAL OF INFORMATION.--A
12 publisher shall remove inaccurate, irrelevant, inadequate or
13 excessive content regarding an individual, and any links or
14 indexes to that content, within thirty days of the date of
15 receipt of a request to do so from that individual. The
16 publisher shall not replace or cooperate with another person to
17 replace the removed content with any disclaimer, takedown
18 notice, hyperlink or other replacement notice, information or
19 content that refers the reader to another source that provides
20 the removed information.

21 SECTION 4. [NEW MATERIAL] PRIVATE REMEDIES.--

22 A. An individual may bring an action against a
23 publisher that violates Section 3 of the Right to Be Forgotten
24 Act and may recover the greater of any actual monetary loss or
25 statutory damages in the amount of two hundred fifty dollars

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1 (\$250) for each day or portion of a day in excess of thirty
2 days after the publisher received the request for removal that
3 the publisher:

4 (1) fails to remove inaccurate, irrelevant,
5 inadequate or excessive content; or

6 (2) fails to remove any disclaimer, takedown
7 notice, hyperlink or other replacement notice, information or
8 content that refers the reader to another source that provides
9 the removed information.

10 B. The court shall award attorney fees and costs to
11 the party complaining of a violation of the Right to Be
12 Forgotten Act if the party prevails. The court shall award
13 attorney fees and costs to the party charged with violation of
14 the Right to Be Forgotten Act if it finds that the party
15 complaining of a violation brought an action that was
16 groundless.

17 C. The relief provided in this section is in
18 addition to remedies otherwise available against the same
19 conduct under the common law or other statutes of this state.

20 SECTION 5. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2019.