

HOUSE BILL 2669

By Hawk

AN ACT to amend Tennessee Code Annotated, Title 45
and Title 47, Chapter 18, relative to financial
services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 45, Chapter 2, is amended by adding
the following as a new part:

45-2-2201. Short title.

This part is known and may be cited as the "Equality in Financial Services Act."

45-2-2202. Definitions.

(a) As used in this part:

(1) "Discriminate in the provision of financial services":

(A) Means utilizing a social credit score to directly or indirectly
decline to provide full and equal enjoyment in the provision of financial
services; and

(B) Includes refusing to provide, terminating, or restricting
financial services;

(2) "Financial institution":

(A) Means:

(i) A bank that has total assets in excess of one hundred
billion dollars (\$100,000,000,000); or

(ii) A payment processor, credit card company, payment
service provider, or payment gateway that has processed more

than ten billion dollars (\$10,000,000,000) in transactions in the last calendar year; and

(B) Includes an affiliate or subsidiary company, even if such affiliate or subsidiary company is also a financial institution;

(3) "Financial service" means a financial product or service offered by a financial institution;

(4) "Person" means an individual, partnership, association, joint stock company, trust, corporation, nonprofit organization, or other business or legal entity;

(5) "Protected from government interference":

(A) Means any speech, religious exercise, association, expression, or conduct that is protected by the First Amendment of the United States constitution; and

(B) Does not include an activity that the supreme court of the United States has expressly held is unprotected, including obscenity, fraud, incitement, true threats, fighting words, or defamation; and

(6) "Social credit score" means any analysis, rating, scoring, list, or tabulation that evaluates:

(A) A person's exercise of religion that is protected from government interference by the First Amendment to the United States constitution, Article I, Section 3 of the Tennessee constitution, or federal or state law, including all aspects of religious observance and practice, as well as belief and affiliation;

(B) A person's speech that is protected from government interference by the First Amendment to the United State constitution or

Article I, Section 19 of the Tennessee constitution, or federal or state law, including the person's opinions, speech, or other expressive activities, and the lawful preservation of privacy regarding such activities, such as the refusal to disclose lobbying, political activity, or contributions beyond what is required by applicable state and federal law;

(C) Failure or refusal to adopt targets or disclosures related to greenhouse gas emissions beyond what is required by applicable state and federal laws;

(D) Failure or refusal to conduct any type of racial, diversity, or gender audit or disclosure or to provide any sort of quota, preference, or benefit based, in whole or in part, on race, diversity, or gender;

(E) Failure or refusal to facilitate or assist employees in obtaining abortions or gender reassignment services; or

(F) Participation in a lawful business association or business activity:

(i) Including:

(a) Business activities with an entity that engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel sources or fossil fuel-based energy; or

(b) Business activities with an entity that engages in the manufacturing, distribution, wholesale, supply, or retail of firearms, firearms accessories, or ammunition; and

(ii) Excluding a financial institution's evaluation of quantifiable financial risks of a person based on impartial,

financial-risk-based standards that include activities described in subdivision (a)(6)(F)(i), if such standards are established in advance by the financial institution and publicly disclosed to customers and potential customers.

(b) It is the legislative intent of the general assembly that the definitions in subsection (a) are construed in favor of the broad protection of the conduct, opinions, and beliefs protected by the First Amendment to the United States Constitution, applicable federal law, the Tennessee Constitution, and state law.

45-2-2203. Discrimination prohibited - Explanation required upon request.

(a) A financial institution shall not:

(1) Discriminate in the provision of financial services to a person; or

(2) Agree, conspire, or coordinate, directly or indirectly, including through an intermediary or third party, with another person, or group of persons, to engage in activity prohibited by subdivision (a)(1).

(b) If a financial institution refuses to provide, restricts, or terminates service to a customer, then that customer may request a written statement of specific reasons within ninety (90) days after receiving notice of the refusal to provide, restriction of, or termination of service. The customer may request the statement from a customer service representative or designated account representative by phone, U.S. mail, or electronic mail. The financial institution shall transmit the written statement of specific reasons via U.S. mail and electronic mail within fourteen (14) days of receiving the customer's request. The written statement of specific reasons must include:

(1) A detailed explanation of the basis for the denial, restriction, or termination of service, including a description of any of the customer's speech, religious exercise, business activity with a particular industry, or other conduct

that was, in whole or in part, the basis of the financial institution's denial, restriction, or termination of service;

(2) A copy of the terms of service agreed to by the customer and the financial institution; and

(3) A citation to the specific provisions of the terms of service upon which the financial institution relied to refuse to provide, restrict, or terminate service.

45-2-2204. Enforcement.

(a) The commissioner of financial institutions shall enforce this part.

(b) A financial institution that violates this part is subject to a fine of ten thousand dollars (\$10,000).

(c) In addition to the penalty described in subsection (a), it is a Class A misdemeanor for a financial institution to commit five (5) or more violations of this section within a twelve-month period from the date of the first violation.

(d) Whenever a financial institution has engaged or there are reasonable grounds to believe that a financial institution is about to engage in an act or practice prohibited by § 45-2-2203, the aggrieved party may initiate a civil action for injunctive relief, including an application for a permanent or temporary injunction, restraining order, or other order as is necessary to enforce this part.

(e) In addition to the relief described in subsections (b)-(d), an aggrieved party may initiate a civil action to recover actual damages, or ten thousand dollars (\$10,000), whichever is greater, for harm caused by each act or practice in violation of § 45-2-2203. If the trier of fact finds that the violation was willful, it may award damages of up to three (3) times the actual damages sustained, or thirty thousand dollars (\$30,000), whichever is greater. A court shall award a prevailing plaintiff reasonable attorneys' fees and court costs.

SECTION 2. For the purpose of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2024, the public welfare requiring it.