

SENATE BILL No. 28

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-28.

Synopsis: Discriminatory financial services practices. Prohibits a financial services provider from discriminating in providing financial services to a consumer by using a social credit score as a basis for directly or indirectly: (1) declining to provide to the consumer full and equal access to one or more financial services; or (2) providing the consumer with one or more financial services on less favorable terms and conditions than would otherwise apply to the consumer if a social credit score were not used. Defines "social credit score" for purposes of these provisions. Specifies that the term does not include an analysis that involves a financial services provider's evaluation of any quantifiable risks of a consumer's participation in certain business activities or business associations, if the analysis is based on impartial, financial risk based standards that are: (1) established in advance; and (2) publicly disclosed to customers and potential customers; by the financial services provider. Provides that if a financial services provider refuses to provide, terminates, or restricts one or more financial services with respect to a consumer, the consumer may request from the financial services provider a statement of the specific reasons constituting the basis for the refusal, termination, or restriction. Provides that a financial services provider that receives such a request shall transmit to the consumer a written statement setting forth the specific reasons constituting the basis for the refusal, termination, or restriction. Sets forth requirements regarding the: (1) content of; and (2) means and time frame for submitting; a request or statement under these provisions. Provides that a violation of these provisions constitutes a deceptive act that is actionable under the deceptive
(Continued next page)

Effective: July 1, 2024.

Tomes

January 8, 2024, read first time and referred to Committee on Insurance and Financial Institutions.



Digest Continued

consumer sales act only by the attorney general. Provides that a consumer aggrieved by a violation of these provisions may bring a civil action for damages, injunctive relief, or both.



Introduced

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE BILL No. 28

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-28 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2024]:
4 **Chapter 28. Equality in Financial Services Act**
5 **Sec. 1. This chapter may be cited as the "Equality in Financial**
6 **Services Act".**
7 **Sec. 2. As used in this chapter, "affiliate" means any person who**
8 **directly or indirectly:**
9 (1) **controls;**
10 (2) **is controlled by; or**
11 (3) **is under the common control of;**
12 **another person.**
13 **Sec. 3. As used in this chapter, "consumer" means:**
14 (1) **a natural person whose principal residence is in Indiana;**
15 **or**



- 1 (2) a person, other than a natural person, that is domiciled in
2 Indiana.
- 3 Sec. 4. As used in this chapter, "discriminate in providing
4 financial services" means using a social credit score as a basis for
5 directly or indirectly:
- 6 (1) declining to provide to a consumer full and equal access to
7 one (1) or more financial services; or
8 (2) providing a consumer with one (1) or more financial
9 services on less favorable terms and conditions than would
10 otherwise apply to the consumer if a social credit score were
11 not used;
- 12 including by refusing to provide, terminating, or restricting the
13 provision of financial services to the consumer.
- 14 Sec. 5. (a) As used in this chapter, "financial institution" means
15 any bank, trust company, corporate fiduciary, savings association,
16 credit union, savings bank, bank of discount and deposit, or
17 industrial loan and investment company organized or reorganized
18 under Indiana law, the law of another state (as defined in
19 IC 28-2-17-19), or United States law.
- 20 (b) The term includes licensees under IC 24-4.4, IC 24-4.5, and
21 750 IAC 9.
- 22 Sec. 6. As used in this chapter, "financial service" means any
23 financial product or service offered by a financial services
24 provider.
- 25 Sec. 7. (a) As used in this chapter, "financial services provider"
26 means any of the following:
- 27 (1) A financial institution that has total assets of more than
28 ten million dollars (\$10,000,000).
29 (2) Any payment card network, payment platform, or other
30 payment service provider that:
- 31 (A) processed more than ten million dollars (\$10,000,000)
32 in transactions in the preceding calendar year; or
33 (B) processes or will process more than ten million dollars
34 (\$10,000,000) in transactions in the current calendar year,
35 if the payment card network, payment platform, or other
36 payment service provider did not process more than ten
37 million dollars (\$10,000,000) in transactions in the
38 preceding calendar year.
- 39 (b) The term includes an affiliate of any of the following:
- 40 (1) A financial institution described in subsection (a)(1),
41 regardless of whether the affiliate is also a financial institution
42 described in subsection (a)(1).



(2) Any:

- (A) payment card network;
- (B) payment platform; or
- (C) other payment service provider;

described in subsection (a)(2), regardless of whether the affiliate is also a payment card network, a payment platform, or another payment service provider described in subsection (a)(2).

Sec. 8. As used in this chapter, "payment card network" means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that:

- (1) route information and data to conduct debit card or credit card transaction authorization, clearance, and settlement; and
- (2) a merchant or seller uses in order to accept as a form of payment a brand of:
 - (A) debit card;
 - (B) credit card; or
 - (C) another device that may be used to carry out debit or credit transactions.

Sec. 9. As used in this chapter, "person" means:

- (1) a natural person; or
- (2) an organization, including a corporation, a partnership, a proprietorship, an association, a cooperative, an estate, or a trust.

Sec. 10. (a) As used in this chapter, "social credit score" means any analysis, rating, score, numerical value, or categorization that is derived from an evaluation of any of the following:

- (1) A consumer's exercise of religion as protected from governmental interference by:
 - (A) the First Amendment to the Constitution of the United States;
 - (B) Article 1, Sections 2 and 3 of the Constitution of the State of Indiana; or
 - (C) federal or state law;
 including all aspects of religious observance, practice, belief, and affiliation.
- (2) A consumer's exercise of speech, expression, or assembly as protected from governmental interference by:
 - (A) the First Amendment to the Constitution of the United States;
 - (B) Article 1, Sections 9 and 31 of the Constitution of the



- 1 **State of Indiana; or**
 2 **(C) federal or state law;**
 3 **including the lawful protection of privacy regarding a**
 4 **consumer's expressive activities, such as the refusal to disclose**
 5 **political activity, lobbying activity, or political contributions,**
 6 **beyond what is required by applicable federal or state law.**
 7 **(3) A consumer's failure or refusal to adopt or disseminate**
 8 **any targets, goals, or disclosures related to greenhouse gas**
 9 **emissions, beyond what is required by applicable federal or**
 10 **state law.**
 11 **(4) A consumer's failure or refusal to:**
 12 **(A) conduct or disseminate any type of diversity, equity,**
 13 **and inclusion program, audit, or disclosure; or**
 14 **(B) establish or provide any quota, preference, or benefit**
 15 **based, in whole or in part, on race, diversity, or gender.**
 16 **(5) A consumer's failure or refusal to facilitate or assist**
 17 **employees in obtaining abortions or gender transition**
 18 **procedures.**
 19 **(6) Except as provided in subsection (b), a consumer's**
 20 **participation in any lawful business activities or business**
 21 **associations, including:**
 22 **(A) business activity with firearms or ammunition**
 23 **manufacturers or dealers; or**
 24 **(B) business activity with the fossil fuel industry.**
 25 **(b) For purposes of subsection (a)(6), "social credit score" does**
 26 **not include an analysis that involves a financial services provider's**
 27 **evaluation of any quantifiable risks of a consumer's participation**
 28 **in business activities or business associations, if the analysis is**
 29 **based on impartial, financial risk based standards that are:**
 30 **(1) established in advance by the financial services provider;**
 31 **and**
 32 **(2) publicly disclosed to the financial services provider's**
 33 **customers and potential customers.**
 34 **Sec. 11. (a) A financial services provider shall not:**
 35 **(1) discriminate in providing financial services to a consumer;**
 36 **or**
 37 **(2) agree, conspire, or coordinate, directly or indirectly or**
 38 **through any intermediary or third party, with another person**
 39 **to discriminate in providing financial services to a consumer.**
 40 **(b) If a financial services provider refuses to provide,**
 41 **terminates, or restricts one (1) or more financial services with**
 42 **respect to a consumer, the consumer may request from the**



1 financial services provider a statement of the specific reasons
 2 constituting the basis for the refusal, termination, or restriction. A
 3 consumer must submit a request under this subsection not later
 4 than ninety (90) days after receiving notice of the refusal to
 5 provide, the termination, or the restriction. A consumer may
 6 submit a request under this subsection by:

- 7 (1) telephone:
 8 (A) through a toll free telephone number; and
 9 (B) from one (1) or more customer service or account
 10 representatives;
 11 designated by the financial services provider;
 12 (2) United States mail; or
 13 (3) electronic mail or through other electronic means.

14 Not later than fourteen (14) days after receiving a request under
 15 this subsection, a financial services provider shall transmit to the
 16 consumer, by United States mail or by electronic means, a written
 17 statement setting forth the specific reasons constituting the basis,
 18 in whole or in part, for the refusal, termination, or restriction. If a
 19 financial services provider transmits the required statement by
 20 United States mail, the financial services provider complies with
 21 the time frame set forth in this subsection if the financial services
 22 provider deposits the statement in the United States mail with
 23 postage prepaid, and the notice is postmarked not later than
 24 fourteen (14) days after the date of receipt of the consumer's
 25 request under this subsection.

26 (c) A financial services provider's statement under subsection
 27 (b) must include the following:

- 28 (1) A detailed explanation of the reasons for the refusal,
 29 termination, or restriction of financial services with respect to
 30 the consumer, including any:
 31 (A) exercise of religion;
 32 (B) exercise of speech, expression, or assembly;
 33 (C) participation in business activities or business
 34 associations; or
 35 (D) other conduct, including any conduct described in
 36 section 10(a)(3), 10(a)(4), or 10(a)(5) of this chapter;
 37 undertaken by the consumer and that constituted the basis, in
 38 whole or in part, for the refusal, termination, or restriction of
 39 financial services by the financial services provider.
 40 (2) In the case of a consumer who is an existing customer of
 41 the financial services provider:
 42 (A) a copy of the terms of service agreed to by the



1 consumer and the financial services provider; and
 2 (B) a citation to the specific provisions of the terms of
 3 service upon which the financial services provider relied in
 4 refusing to provide, terminating, or restricting the
 5 financial services to the consumer;
 6 to the extent applicable.

7 **Sec. 12. (a)** A violation of this chapter constitutes a deceptive act
 8 that is actionable under IC 24-5-0.5 only by the attorney general
 9 under IC 24-5-0.5-4(c).

10 (b) If the attorney general has reasonable cause to believe that
 11 a financial services provider has engaged in, is engaging in, or is
 12 about to engage in a violation of this chapter, the attorney general
 13 may:

- 14 (1) investigate the violation or suspected violation;
 15 (2) bring an action and seek remedies as provided in
 16 IC 24-5-0.5-4(c); and
 17 (3) accept an assurance of voluntary compliance from a
 18 financial services provider under IC 24-5-0.5-7.

19 **Sec. 13.** A consumer who is aggrieved by a violation of this
 20 chapter may bring a civil action, in a court having jurisdiction, for
 21 one (1) or both of the following:

22 (1) Actual damages or ten thousand dollars (\$10,000),
 23 whichever is greater. The court may increase damages for a
 24 willful violation in an amount that does not exceed the greater
 25 of:

- 26 (A) three (3) times the actual damages sustained; or
 27 (B) thirty thousand dollars (\$30,000).

28 (2) Injunctive relief, including:

- 29 (A) a permanent or temporary injunction;
 30 (B) a permanent or temporary restraining order; or
 31 (C) any other order;

32 as necessary to enforce the requirements of this chapter.

33 A court shall award a prevailing plaintiff in an action brought
 34 under this section reasonable attorney's fees and court costs.

35 **Sec. 14.** The provisions of this chapter are severable as provided
 36 in IC 1-1-1-8(b).

