

By: Senator(s) Fillingane

To: Business and Financial
Institutions

SENATE BILL NO. 2118

1 AN ACT TO ENACT THE EQUALITY IN FINANCIAL SERVICES ACT; TO
2 DEFINE TERMS; TO STATE LEGISLATIVE FINDINGS AND DETERMINATIONS; TO
3 PROHIBIT A FINANCIAL INSTITUTION FROM DISCRIMINATING IN THE
4 PROVISION OF FINANCIAL SERVICES TO A PERSON OR CONSPIRING OR
5 COORDINATING TO DISCRIMINATE IN THE PROVISION OF FINANCIAL
6 SERVICES TO A PERSON; TO PROVIDE THAT A VIOLATION OF THIS ACT
7 SHALL BE A VIOLATION OF TITLE 75, CHAPTER 24, MISSISSIPPI CODE OF
8 1972; TO PROVIDE A PRIVATE CAUSE OF ACTION; TO AMEND SECTION
9 75-24-5, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
10 PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** This act shall be known and may be cited as the
13 "Equality in Financial Services Act."

14 **SECTION 2.** The Legislature finds and determines that:

15 (a) Obtaining access to financial services is a basic
16 requirement for a person to meaningfully participate in
17 Mississippi's marketplace;

18 (b) On account of their fundamental role in the
19 marketplace, the Mississippi and United States governments have
20 given financial institutions significant privileges and have
21 enacted state and federal laws that guarantee access to certain



22 financial services without discrimination based on race, color,
23 religion, national origin, sex and other factors;

24 (c) New banks and other financial institutions face
25 significant barriers to entry that reduce the competitiveness of
26 the market and allow existing institutions to wield significant
27 power;

28 (d) Financial institutions should not act as de facto
29 regulators of private conduct by denying financial services based
30 on a person's religious exercise, association, speech, social
31 views, or participation in a particular industry;

32 (e) Financial institutions have a responsibility to
33 make decisions about whether to provide a person with financial
34 services on the basis of impartial criteria free from
35 discrimination or favoritism based on the above factors;

36 (f) Financial institutions also have a responsibility
37 to disclose the conditions under which they will deny financial
38 services, and if they deny financial services, to provide upon
39 request a truthful and complete explanation to the person as to
40 why financial services were denied;

41 (g) Financial institutions face increasing internal and
42 external pressures to impede otherwise lawful commerce based on a
43 person's religious exercise, associations, speech, social views,
44 or participation in particular industries, and to do so covertly,
45 without informing the person or the public why services were or
46 will be denied;



47 (h) When financial institutions omit material
48 information about when they will deny financial services or why
49 they denied financial services to a person, this lack of
50 transparency harms specific persons and the general marketplace;

51 (i) This kind of deception and unfair discrimination in
52 the provision of financial services threatens the economy,
53 security, and the soundness of banking and other financial markets
54 in Mississippi; and

55 (j) These deceptive and unfairly discriminatory
56 practices threaten the ability of Mississippi's citizens to speak
57 freely as part of the democratic process and to live freely
58 according to the dictates of their conscience, and these practices
59 also violate the public trust.

60 **SECTION 3.** (1) For purposes of this act, the following
61 words shall have the meaning ascribed herein unless the context
62 clearly requires otherwise:

63 (a) "Discriminate in the provision of financial
64 services" means utilizing a social credit score to directly or
65 indirectly decline to provide full and equal enjoyment in the
66 provision of financial services, and includes refusing to provide,
67 terminating, or restricting financial services.

68 (b) "Financial institution" means

69 (i) A bank that has total assets over One Hundred
70 Million Dollars (\$100,000,000,000); or



71 (ii) A payment processor, credit card company,
72 credit card network, payment network, payment service provider, or
73 payment gateway that has processed more than One Hundred Million
74 Dollars (\$100,000,000,000) in transactions in the last calendar
75 year. A financial institution includes any affiliate or
76 subsidiary company, even if that company is also a financial
77 institution.

78 (c) "Financial service" means any financial product or
79 service offered by a financial institution.

80 (d) "Person" means any individual, partnership,
81 association, joint-stock company, trust, corporation, nonprofit
82 organization, or other business or legal entity.

83 (e) "Protected from government interference" refers to
84 any speech, religious exercise, association, expression, or
85 conduct that is protected by the First Amendment other than
86 activities that the Supreme Court of the United States has
87 expressly held are unprotected as of the date of this legislation,
88 such as obscenity, fraud, incitement, true threats, fighting
89 words, or defamation.

90 (f) (i) "Social credit score" means any analysis,
91 rating, scoring, list, or tabulation that evaluates any of the
92 following:

93 1. Any person's exercise of religion that is
94 protected from government interference by the First Amendment to
95 the United States Constitution, Article 3, Section 18 of



Mississippi's Constitution of 1890, or federal or state law,
including all aspects of religious observance and practice, as
well as belief and affiliation;

2. Any person's speech, expression, or
association that is protected from government interference by the
First Amendment to the United States Constitution or Article 3,
Section 13, Mississippi Constitution of 1890, or federal or state
law, including the person's opinions, speech, or other expressive
activities, including the lawful preservation of privacy regarding
those activities, such as the refusal to disclose lobbying,
political activity, or contributions beyond what is required by
applicable state and federal law;

3. Failure or refusal to adopt any targets or
disclosures related to greenhouse gas emissions beyond what is
required by applicable state and federal law;

4. 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;

5. Failure or refusal to facilitate or assist
employees in obtaining abortions or gender reassignment services;
or

6. Except as provided in subparagraph (ii) of
this paragraph, participation in the following lawful business
associations or business activities:



a. Business activity by the person or others with firearms and ammunition manufacturers or dealers; or
b. Business activity by the person or others with an oil or gas company.

(ii) For the purposes of subparagraph (i)6 of this paragraph only, "social credit score" does not include the financial institution evaluating quantifiable financial risks of a person based on impartial, financial-risk-based standards that includes activities described in subparagraph (i)6 of this paragraph, if such standards are established in advance by the financial institution and publicly disclosed to customers and potential customers.

(2) These definitions shall be 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 laws, Mississippi Constitution of 1890, and state law.

SECTION 4. (1) A financial institution shall not:

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

(b) Agree, conspire, or coordinate, directly or indirectly, including through any intermediary or third party, with another person, or group of persons, to engage in activity prohibited by paragraph (a) of this subsection.



(2) If a financial institution refuses to provide, restricts, or terminates service to a customer, that customer may request a 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 must transmit the statement of specific reasons via U.S. Mail and electronic mail within fourteen (14) days of receiving the customer's request. The statement of specific reasons shall include:

(a) A detailed explanation of the basis for the denial 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 or termination of service;

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

(c) 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.

SECTION 5. (1) Any violation of this act shall constitute a violation of Title 75, Chapter 24, Mississippi Code of 1972.



169 (2) If the Attorney General has reasonable cause to believe
170 that any financial institution has engaged in, is engaging in, or
171 is about to engage in, any violation of this act, the Attorney
172 General may investigate, bring a civil action and seek remedies as
173 provided in Title 75, Chapter 24, Mississippi Code of 1972.

174 (3) Any person harmed by a violation of this act may
175 initiate a civil action for either or both of the following:

176 (a) To recover actual damages, or Ten Thousand Dollars
177 (\$10,000.00), whichever is greater for each violation. If the
178 trier of fact finds that the violation was willful, it may
179 increase the damages to an amount of up to three (3) times the
180 actual damages sustained, or Thirty Thousand Dollars (\$30,000.00),
181 whichever is greater. A court shall award a prevailing plaintiff
182 reasonable attorneys' fees and court costs.

183 (b) To obtain preventive relief, including an
184 application for a permanent or temporary injunction, restraining
185 order, or other order as is necessary to enforce the requirements
186 of this act.

187 **SECTION 6.** Section 75-24-5, Mississippi Code of 1972, is
188 amended as follows:

189 75-24-5. (1) Unfair methods of competition affecting
190 commerce and unfair or deceptive trade practices in or affecting
191 commerce are prohibited. Action may be brought under Section
192 75-24-5(1) only under the provisions of Section 75-24-9.



(2) Without limiting the scope of subsection (1) of this section, the following unfair methods of competition and unfair or deceptive trade practices or acts in the conduct of any trade or commerce are hereby prohibited:

(a) Passing off goods or services as those of another;

(b) Misrepresentation of the source, sponsorship, approval, or certification of goods or services;

(c) Misrepresentation of affiliation, connection, or association with, or certification by another;

(d) Misrepresentation of designations of geographic origin in connection with goods or services;

(e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;

(f) Representing that goods are original or new if they are reconditioned, reclaimed, used, or secondhand;

(g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(h) Disparaging the goods, services, or business of another by false or misleading representation of fact;

(i) Advertising goods or services with intent not to sell them as advertised;



218 (j) Advertising goods or services with intent not to
219 supply reasonably expectable public demand, unless the
220 advertisement discloses a limitation of quantity;

221 (k) Misrepresentations of fact concerning the reasons
222 for, existence of, or amounts of price reductions;

223 (l) Advertising by or on behalf of any licensed or
224 regulated health care professional which does not specifically
225 describe the license or qualifications of the licensed or
226 regulated health care professional;

227 (m) Charging an increased premium for reinstating a
228 motor vehicle insurance policy that was cancelled or suspended by
229 the insured solely for the reason that he was transferred out of
230 this state while serving in the United States Armed Forces or on
231 active duty in the National Guard or United States Armed Forces
232 Reserve. It is also an unfair practice for an insurer to charge
233 an increased premium for a new motor vehicle insurance policy if
234 the applicant for coverage or his covered dependents were
235 previously insured with a different insurer and canceled that
236 policy solely for the reason that he was transferred out of this
237 state while serving in the United States Armed Forces or on active
238 duty in the National Guard or United States Armed Forces Reserve.
239 For purposes of determining premiums, an insurer shall consider
240 such persons as having maintained continuous coverage. The
241 provisions of this paragraph (m) shall apply only to such



242 instances when the insured does not drive the vehicle during the
243 period of cancellation or suspension of his policy;

244 (n) Violating the provisions of Section 75-24-8; * * *

245 (o) Violating the provisions of Section 73-3-38 * * *;

246 and

247 (p) Violating the provisions of Section 4 of this act.

248 **SECTION 7.** This act shall take effect and be in force from
249 and after July 1, 2024.

