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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 635

01/19/2023 Authored by Greenman; Hortman; Olson, L.; Keeler; Frederick and others
The bill was read for the first time and referred to the Committee on Elections Finance and Policy

1.1 A bill for an act
1.2 relating to elections; prohibiting intimidation of election officials; prohibiting
1.3 interference with the performance of a duty of election administration by an election
1.4 official; prohibiting tampering with or unauthorized access to certain types of
1.5 election systems and equipment; providing penalties; appropriating money;
1.6 amending Minnesota Statutes 2022, sections 8.31, subdivision 1; 204B.26; 206.845,
1.7 subdivision 1; 211B.32, subdivision 1; proposing coding for new law in Minnesota
1.8 Statutes, chapter 211B.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2022, section 8.31, subdivision 1, is amended to read:

1.11 Subdivision 1. Investigate offenses against provisions of certain designated sections;
1.12 assist in enforcement. The attorney general shall investigate violations and assist in the
1.13 enforcement of the following laws as provided in this section:

1.14 (1) the law of this state respecting unfair, discriminatory, and other unlawful practices
1.15 in business, commerce, or trade, and specifically, but not exclusively, the Nonprofit
1.16 Corporation Act (sections 317A.001 to 317A.909), the Act Against Unfair Discrimination
1.17 and Competition (sections 325D.01 to 325D.07), the Unlawful Trade Practices Act (sections
1.18 325D.09 to 325D.16), the Antitrust Act (sections 325D.49 to 325D.66), section 325F.67
1.19 and other laws against false or fraudulent advertising, the antidiscrimination acts contained
1.20 in section 325D.67, the act against monopolization of food products (section 325D.68), the
1.21 act regulating telephone advertising services (section 325E.39), the Prevention of Consumer
1.22 Fraud Act (sections 325F.68 to 325F.70), and chapter 53A regulating currency exchanges
1.23 and assist in the enforcement of those laws as in this section provided; and

1.24 (2) section 211B.076, regulating intimidation and interference related to the performance
1.25 of duties by an election official.

2.1 **EFFECTIVE DATE.** This section is effective July 1, 2023.

2.2 Sec. 2. Minnesota Statutes 2022, section 204B.26, is amended to read:

2.3 **204B.26 ELECTION JUDGES; VIOLATIONS; PENALTIES.**

2.4 A county auditor or municipal clerk may remove any precinct election official at any
 2.5 time if the official engages in a neglect of duty, malfeasance, misconduct in office, or for
 2.6 other cause. Any individual who serves as an election judge in violation of any of the
 2.7 provisions of sections 204B.19 to 204B.25, is guilty of a misdemeanor.

2.8 Sec. 3. Minnesota Statutes 2022, section 206.845, subdivision 1, is amended to read:

2.9 Subdivision 1. **Prohibited connections.** The county auditor and municipal clerk must
 2.10 secure ballot recording and tabulating systems physically and electronically against
 2.11 unauthorized access. Except for wired connections within the polling place, ballot recording
 2.12 and tabulating systems must not be connected to or operated on, directly or indirectly, any
 2.13 electronic network, including a local area network, a wide-area network, the Internet, or the
 2.14 World Wide Web. Wireless communications may not be used in any way in a vote recording
 2.15 or vote tabulating system. Wireless, device-to-device capability is not permitted. No
 2.16 connection by modem is permitted.

2.17 Transfer of information from the ballot recording or tabulating system to another system
 2.18 for network distribution or broadcast must be made by disk, tape, or other physical means
 2.19 of communication, other than direct or indirect electronic connection of the vote recording
 2.20 or vote tabulating system. A county auditor or municipal clerk may not create or disclose,
 2.21 or permit any other person to create or disclose, an electronic image of the hard drive of
 2.22 any vote recording or tabulating system or any other component of an electronic voting
 2.23 system, except as authorized in writing by the secretary of state or for the purpose of
 2.24 conducting official duties as expressly authorized by law.

2.25 Sec. 4. **[211B.076] INTIMIDATION AND INTERFERENCE RELATED TO THE**
 2.26 **PERFORMANCE OF DUTIES BY AN ELECTION OFFICIAL; PENALTIES.**

2.27 Subdivision 1. **Definition.** For the purposes of this section, "election official" means a
 2.28 member of a canvassing board, the county auditor or municipal clerk charged with duties
 2.29 relating to elections, a member of an absentee ballot board, an election judge, an election
 2.30 judge trainee, or any other individual assigned by a state entity or municipal government
 2.31 to perform official duties related to elections.

3.1 Subd. 2. **Intimidation.** (a) A person may not directly or indirectly use or threaten force,
3.2 coercion, violence, restraint, damage, harm, or loss, including loss of employment or
3.3 economic reprisal, against another with the intent to influence an election official in the
3.4 performance of a duty of election administration.

3.5 (b) In a civil action brought to prevent and restrain violations of this subdivision or to
3.6 require the payment of civil penalties, the moving party may show that the action or attempted
3.7 action would cause a reasonable person to feel intimidated. The moving party does not need
3.8 to show that the actor intended to cause the victim to feel intimidated.

3.9 Subd. 3. **Interfering with or hindering the administration of an election.** A person
3.10 may not intentionally hinder, interfere with, or prevent an election official's performance
3.11 of a duty related to election administration.

3.12 Subd. 4. **Dissemination of personal information about an election official.** (a) A
3.13 person may not knowingly and without consent make publicly available, including but not
3.14 limited to through the Internet, personal information about an election official or an election
3.15 official's family or household member if:

3.16 (1) the dissemination poses an imminent and serious threat to the official's safety or the
3.17 safety of an official's family or household member; and

3.18 (2) the person making the information publicly available knows or reasonably should
3.19 know of any imminent and serious threat.

3.20 (b) As used in this subdivision, "personal information" means the home address of the
3.21 election official or a member of an election official's family, directions to that home, or
3.22 photographs of that home.

3.23 Subd. 5. **Obstructing access.** A person may not intentionally and physically obstruct
3.24 an election official's access to or egress from a polling place, meeting of a canvassing board,
3.25 place where ballots and elections equipment are located or stored, or any other place where
3.26 the election official performs a duty related to election administration.

3.27 Subd. 6. **Tampering with voting equipment.** (a) A person may not access without
3.28 authorization, tamper with, or facilitate unauthorized access to or tampering with an electronic
3.29 voting system, electromechanical voting equipment, or an election night reporting system
3.30 before, during, or after any election required by law.

3.31 (b) A person may not knowingly publish or cause to be published passwords or other
3.32 confidential information relating to an electronic voting system. In addition to any other
3.33 remedies and penalties provided by this section, the secretary of state, county auditor, or

4.1 municipal clerk must immediately revoke any authorized access rights of a person found
 4.2 to be in violation of this paragraph.

4.3 Subd. 7. **Tampering with ballot box.** A person may not willfully tamper with or open
 4.4 a ballot box, including a ballot drop box, except for the purpose of conducting official duties
 4.5 as expressly authorized by law.

4.6 Subd. 8. **Tampering with statewide voter registration system, registration list, or**
 4.7 **polling place roster.** Except for the purpose of conducting official duties as expressly
 4.8 authorized by law, a person may not mutilate or erase any name, figure, or word on a voter
 4.9 registration list or polling place roster; remove or destroy a registration list or polling place
 4.10 roster; or mutilate, erase, or remove any part of a list or roster from the place where it has
 4.11 been deposited with an intention to destroy it, to procure or prevent the election of any
 4.12 person, or to prevent any voter from voting.

4.13 Subd. 9. **Unauthorized access to statewide voter registration system.** A person may
 4.14 not knowingly access, or attempt to access, the statewide voter registration system except
 4.15 for the purpose of conducting official duties as expressly authorized by law.

4.16 Subd. 10. **Vicarious liability; conspiracy.** A person may be held vicariously liable for
 4.17 any damages resulting from the violation of this section and may be identified in an order
 4.18 restraining violations of this section if that person:

4.19 (1) intentionally aids, advises, hires, counsels, abets, incites, compels, or coerces a person
 4.20 to violate any provision of this section or attempts to aid, advise, hire, counsel, abet, incite,
 4.21 compel, or coerce a person to violate any provision of this section; or

4.22 (2) conspires, combines, agrees, or arranges with another to either commit a violation
 4.23 of this section or aid, advise, hire, counsel, abet, incite, compel, or coerce a third person to
 4.24 violate any provision of this section.

4.25 Subd. 11. **Criminal penalties; civil remedies.** (a) Except as otherwise provided, a person
 4.26 who violates this section is guilty of a gross misdemeanor.

4.27 (b) The attorney general, a county attorney, or an election official may bring a civil
 4.28 action to prevent or restrain a violation of this section if there is a reasonable basis to believe
 4.29 that an individual or entity is committing or intends to commit a prohibited act.

4.30 (c) The attorney general, or an election official injured by an act prohibited by this
 4.31 section, may bring a civil action pursuant to section 8.31 to recover damages, together with
 4.32 costs of investigation and reasonable attorney fees, and receive other equitable relief as
 4.33 determined by the court. An action brought by an election official under section 8.31,

5.1 subdivision 3a, is in the public interest. In addition to all other damages, the court may
5.2 impose a civil penalty of up to \$1,000 for each violation.

5.3 (d) Civil remedies allowable under this section are cumulative and do not restrict any
5.4 other right or remedy otherwise available. An action for a penalty or remedy under this
5.5 section must be brought within two years of the date the violation is alleged to have occurred.
5.6 The complaint process provided in sections 211B.31 to 211B.36 does not apply to violations
5.7 of this section.

5.8 **EFFECTIVE DATE.** This section is effective July 1, 2023, and applies to crimes
5.9 committed on or after that date.

5.10 Sec. 5. Minnesota Statutes 2022, section 211B.32, subdivision 1, is amended to read:

5.11 Subdivision 1. **Administrative remedy; exhaustion.** (a) Except as provided in ~~paragraph~~
5.12 paragraphs (b) and (c), a complaint alleging a violation of chapter 211A or 211B must be
5.13 filed with the office. The complaint must be finally disposed of by the office before the
5.14 alleged violation may be prosecuted by a county attorney.

5.15 (b) Complaints arising under those sections and related to those individuals and
5.16 associations specified in section 10A.022, subdivision 3, must be filed with the Campaign
5.17 Finance and Public Disclosure Board.

5.18 (c) Violations of section 211B.076 may only be enforced as provided in section 211B.076.

5.19 Sec. 6. **APPROPRIATION.**

5.20 \$..... in fiscal year 2024 is appropriated from the general fund to the attorney general
5.21 for enforcement of Minnesota Statutes, section 211B.076.