

House Amendment 1732

PAG LIN

1 1 Amend Senate File 554, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by inserting after line 5 the
1 4 following:
1 5 <Sec. _____. Section 476.55, subsection 2, Code
1 6 2007, is amended by striking the subsection.>
1 7 #2. Page 14, by inserting after line 35 the
1 8 following:
1 9 <4. A cable service provider or video service
1 10 provider shall not engage in unlawful discrimination
1 11 in relation to the establishment of rates.
1 12 a. A cable service provider or video service
1 13 provider shall be prohibited from subsidizing its
1 14 lower rate offerings with rates paid by customers in
1 15 higher rate exchange areas. Any person who provides
1 16 cable service pursuant to a franchise granted under
1 17 this chapter shall be prohibited from selling such
1 18 service or a bundle of services that includes cable
1 19 service or video services at a price that is more than
1 20 two hundred percent of the lowest price that provider
1 21 charges for a functionally equivalent service or
1 22 bundle of services to another customer in this state.
1 23 A cable service provider or video service provider
1 24 that offers a price to a customer in the franchised
1 25 area in violation of this subsection shall be deemed
1 26 to have engaged in predatory pricing. If the lowest
1 27 price meets a bona fide price offered to a customer in
1 28 the franchised area by an unrelated or unaffiliated
1 29 competitor, such price shall not be used to determine
1 30 a violation of this subsection.
1 31 b. A cable service provider or video service
1 32 provider found by a court of competent jurisdiction to
1 33 have failed to materially comply with this subsection
1 34 shall be subject to the following:
1 35 (1) An injunction ordering compliance with this
1 36 subsection.
1 37 (2) For each franchised area in which a violation
1 38 occurs, a civil penalty in an amount not exceeding ten
1 39 thousand dollars.
1 40 c. If the court finds that the noncompliance with
1 41 this subsection has resulted in a loss of customers to
1 42 a competitive provider, the injured provider may bring
1 43 a civil action on behalf of the customer or customers
1 44 seeking recovery of damages.
1 45 d. If the court finds that noncompliance with this
1 46 subsection has resulted in a loss of customers to a
1 47 competitive cable service provider or competitive
1 48 video service provider, the injured competitive cable
1 49 service provider or competitive video service provider
1 50 may bring a civil action to recover the consequential
2 1 damages of economic loss suffered by the injured
2 2 provider as a result of the loss of customers who
2 3 changed to a noncompliant competitive cable service
2 4 provider or noncompliant competitive video service
2 5 provider while that noncompliant provider was in
2 6 violation of this subsection.>
2 7 #3. Page 15, by inserting after line 14 the
2 8 following:
2 9 <Sec. _____. NEW SECTION. 551.1A. UNFAIR
2 10 DISCRIMINATION IN LOCAL EXCHANGE RATES.
2 11 1. A telecommunications provider holding a
2 12 certificate of public convenience and necessity for
2 13 providing local telecommunications services under
2 14 section 476.29 and offering local exchange services in
2 15 this state shall be prohibited from selling such
2 16 services or a bundle of services including such
2 17 services at a price that is more than two hundred
2 18 percent of the lowest price that provider charges for
2 19 functionally equivalent services or a bundle of
2 20 services including equivalent services to another
2 21 customer in this state. A telecommunications provider
2 22 that offers a price to a customer in violation of this
2 23 subsection shall be deemed to have engaged in
2 24 predatory pricing. If the lowest price meets a bona

2 25 fide price offered to a customer in the local exchange
2 26 by an unrelated or unaffiliated competitor, such price
2 27 shall not be used to determine a violation of this
2 28 subsection.
2 29 2. A telecommunications provider found by a court
2 30 of competent jurisdiction to have failed to materially
2 31 comply with this section shall be subject to the
2 32 following:
2 33 a. An injunction ordering compliance with this
2 34 section.
2 35 b. For each franchised area in which a violation
2 36 occurs, a civil penalty in an amount not exceeding ten
2 37 thousand dollars.
2 38 3. If the court finds that the noncompliance with
2 39 this section has resulted in a loss or damage to a
2 40 customer, a person or class of persons may bring a
2 41 civil action on behalf of the customer or customers
2 42 seeking recovery of damages.
2 43 4. If the court finds that noncompliance with this
2 44 section has resulted in a loss of customers to a
2 45 competitive telecommunications service provider, the
2 46 injured telecommunications service provider may bring
2 47 a civil action to recover the consequential damages of
2 48 economic loss suffered by the injured provider as a
2 49 result of the loss of customers who changed to a
2 50 noncompliant telecommunications service provider while
3 1 that noncompliant provider was in violation of this
3 2 section.>
3 3 #4. By renumbering as necessary.
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PETTENGILL of Benton
3 8 SF 554.513 82
3 9 rn/je/9341