IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 203

BY STATE AFFAIRS COMMITTEE

1 AN ACT
2 RELATING TO THE IDAHO COMPETITION ACT; AMENDING SECTION 48-105, IDAHO CODE,
3   TO PROVIDE FOR A MONOPSONY; AMENDING SECTION 48-113, IDAHO CODE, TO PRO-
4   VIDE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAP-
5   TER 1, TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-119,
6   IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE PROHIBITION OF PRIC-
7   ING ALGORITHMS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
8   DATE.

9 Be It Enacted by the Legislature of the State of Idaho:

10   SECTION 1. That Section 48-105, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12   48-105. MONOPOLIES AND MONOPSONIES. It is unlawful to monopolize or
13 monopsonize, attempt to monopolize or monopsonize, or combine or conspire to
14 monopolize or monopsonize any line of Idaho commerce.

15   SECTION 2. That Section 48-113, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17   48-113. PRIVATE CAUSES OF ACTION. (1) Any person injured directly or
18 threatened with direct injury by reason of anything prohibited by this chap-
19 ter, may bring an action for injunctive relief, damages, and, as determined
20 by the court, reasonable costs and attorney's fees. The court shall exclude
21 from the amount of monetary relief awarded to a plaintiff under this section
22 any amount which that duplicates amounts allocable to any other actual or
23 potential plaintiff including, without limitation, potential claims by the
24 attorney general on behalf of indirect purchasers for the same conduct or in-
25 jury.
26   (2) If the district court finds that the violation at issue constituted
27 a per se violation of section 48-104, Idaho Code, or an intentional violation
28 of section 48-105 or 48-119, Idaho Code, it shall increase the recovery to an
29 amount not in excess of three (3) times the damages sustained.

30   SECTION 3. That Chapter 1, Title 48, Idaho Code, be, and the same is
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
32 ignated as Section 48-119, Idaho Code, and to read as follows:

33   48-119. PRICING ALGORITHMS PROHIBITED. (1) It shall be unlawful for a
34 service provider to facilitate an agreement to diminish competition relat-
35 ing to price, volume of supply, or any other commercial term between two (2)
36 or more providers of a similar good or service.
37   (2) It shall be unlawful for a service provider to use or distribute, or
38 cause to be used or distributed, a pricing algorithm that incorporates non-
39 public data from two (2) or more sellers or buyers of a similar good or ser-

1 vice or to use or distribute a pricing algorithm with the intent that it be
2 used by two (2) or more sellers or buyers of a similar good or service.
3   (3) It shall be unlawful for a seller or buyer of a good or service to
4 set a price, volume of supply, or any other commercial term through the use
5 of a pricing algorithm that incorporates nonpublic data from two (2) or more
6 providers of a similar good or service or to use a pricing algorithm that is
7 used by one (1) or more other sellers or buyers of a similar good or service.
8   (4) It shall be unlawful for any person to publicly represent a price
9 or commercial term of a good or service that is different than the price or
10 commercial term offered by the buyer or seller of the good or service without
11 authorization of the buyer or seller.
12   (5) It shall not be a violation of this section if a seller or buyer of
13 a good or service could not have reasonably known that a pricing algorithm
14 incorporated nonpublic data or if a seller or buyer could not have reasonably
15 known that a pricing algorithm would be used by one (1) or more other sellers
16 or buyers of a similar good or service.
17   (6) Any person injured in his business or property by artificial pric-
18 ing or volume of supply due to a pricing algorithm may file a private cause of
19 action pursuant to section 48-113, Idaho Code.
20   (7) Nothing in this section shall be interpreted to require the public
21 disclosure of nonpublic, competitively sensitive information regarding the
22 price, volume of supply, or any other commercial term of a good or service,
23 except as required by any other law or regulation.
24   (8) The provisions of this section shall not apply to:
25   (a) Market research firms that analyze or publish public data for the
26   purpose of describing market trends, changes, or forecasts; and
27   (b) Any system used for the purpose of establishing price caps in accor-
28   dance with a government-sponsored program.
29   (9) As used in this section:
30   (a) "Pricing algorithm" means any analytical or computational process,
31   including a process derived from machine learning, artificial intelli-
32   gence, or other mathematical function that recommends or sets a price,
33   volume of supply, or any other commercial term related to the sale or
34   purchase of a good or service.
35   (b) "Service provider" means any person that performs a coordination
36   function for any seller or buyer of a good or service, including through
37   the use or distribution of a pricing algorithm.

38   SECTION 4. An emergency existing therefor, which emergency is hereby
39 declared to exist, this act shall be in full force and effect on and after
40 July 1, 2025.