

By Senator Gruters

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1 A bill to be entitled
2 An act relating to social media websites; providing a
3 short title; defining terms; providing that the owner
4 or operator of a social media website is subject to a
5 private right of action by a social media website user
6 in this state under certain conditions; providing
7 damages; authorizing the award of reasonable attorney
8 fees and costs; prohibiting a social media website
9 from using hate speech as a defense; authorizing the
10 Attorney General to bring an action on behalf of a
11 social media website user; providing exceptions for
12 the deletion or censure of certain types of speech;
13 providing an effective date.

14
15 WHEREAS, this state has a compelling interest in holding
16 certain social media websites to higher standards for having
17 substantially created a digital public square, and

18 WHEREAS, this state has an interest in helping its citizens
19 enjoy their free exercise of rights in certain semi-public
20 forums commonly used for religious and political speech, NOW,
21 THEREFORE,

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. This act may be cited as the "Stop Social Media
26 Censorship Act".

27 Section 2. Social media website speech; cause of action;
28 penalties.—

29 (1) As used in this section, the term:

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30 (a) "Algorithm" means a set of instructions designed to
31 perform a specific task.

32 (b) "Hate speech" means a phrase concerning content that an
33 individual finds offensive based on his or her personal moral
34 code.

35 (c) "Obscene" means that an average person, applying
36 contemporary community standards, would find that, taken as a
37 whole, the dominant theme of the material appeals to prurient
38 interests.

39 (d) "Political speech" means speech relating to the state,
40 government, body politic, or public administration as it relates
41 to governmental policymaking. The term includes speech by the
42 government or candidates for office and any discussion of social
43 issues. The term does not include speech concerning the
44 administration, law, or civil aspects of government.

45 (e) "Religious speech" means a set of unproven answers,
46 truth claims, faith-based assumptions, and naked assertions that
47 attempt to explain such greater questions as how the world was
48 created, what constitutes right and wrong actions by humans, and
49 what happens after death.

50 (f) "Social media website" means an Internet website or
51 application that enables users to communicate with each other by
52 posting information, comments, messages, or images and that
53 meets all of the following requirements:

- 54 1. Is open to the public;
55 2. Has more than 75 million subscribers; and
56 3. From its inception, has not been specifically affiliated
57 with any one religion or political party.

58 (2) (a) The owner or operator of a social media website who

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59 contracts with a social media website user in this state is
60 subject to a private right of action by such user if the social
61 media website purposely:

62 1. Deletes or censors the user's religious speech or
63 political speech; or

64 2. Uses an algorithm to disfavor or censure the user's
65 religious speech or political speech.

66 (b) A social media website user may be awarded all of the
67 following damages under this section:

68 1. A minimum of \$75,000 in statutory damages per purposeful
69 deletion or censoring of the social media website user's speech.

70 2. Actual damages.

71 3. If aggravating factors are present, punitive damages.

72 4. Other forms of equitable relief.

73 (c) The prevailing party in a cause of action under this
74 section may be awarded costs and reasonable attorney fees.

75 (d) A social media website that restores from deletion or
76 removes the censoring of a social media website user's speech in
77 a reasonable amount of time may use that fact to mitigate any
78 damages.

79 (3) A social media website may not use the social media
80 website user's alleged hate speech as a basis for justification
81 or defense of the social media website's actions at trial.

82 (4) The Attorney General may also bring a civil cause of
83 action under this section on behalf of a social media website
84 user who resides in this state and whose religious speech or
85 political speech has been censored by a social media website.

86 (5) This section does not apply to any of the following:

87 (a) A social media website that deletes or censors a social

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88 media website user's speech or that uses an algorithm to
89 disfavor or censure speech that:

90 1. Calls for immediate acts of violence;

91 2. Is obscene or pornographic in nature;

92 3. Is the result of operational error;

93 4. Is the result of a court order;

94 5. Comes from an inauthentic source or involves false
95 impersonation;

96 6. Entices criminal conduct; or

97 7. Involves minors bullying minors.

98 (b) A social media website user's censoring of another
99 social media website user's speech.

100 (6) Only users who are 18 years of age or older have
101 standing to seek enforcement of this act.

102 Section 3. This act shall take effect July 1, 2019.