

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  
19          residents enjoy their free exercise of rights in certain semi-  
20          public forums commonly used for religious and political speech,  
21          NOW, THEREFORE,

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

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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 a candidate for office and any discussion of  
43 social 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 personation;

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, 2020.