

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1862

By: Jett

AS INTRODUCED

An Act relating to censorship of social media; defining terms; creating cause of action for deletion or censorship of certain speech; authorizing certain damages; authorizing award of certain costs and fees; prohibiting certain defense; establishing immunity from liability for certain actions; clarifying persons with standing for certain action; authorizing Attorney General to bring certain action; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1450.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Algorithm" means a set of instructions designed to perform a specific task;

2. "Hate speech" means a phrase concerning content that an individual arbitrarily finds offensive based on his or her personal moral code;

1       3. "Obscene" means that to the average person, applying  
2 contemporary community standards, the dominant theme of the material  
3 taken as a whole appeals to prurient interest;

4       4. "Political speech" means speech relating to the state, the  
5 government, the body politic, public administration or government  
6 policymaking. Political speech includes speech by the government or  
7 candidates for office and any discussion of social issues.  
8 Political speech does not include speech concerning the  
9 administration or the law of or relating to the civil aspects of  
10 government;

11       5. "Religious speech" means a set of unproven answers, truth  
12 claims, faith-based assumptions and naked assertions that attempt to  
13 explain the greater questions like how things were created, what  
14 humans should or should not be doing and what happens after death;  
15 and

16       6. "Social media website" means a website or application that  
17 allows a user to construct a public or semi-public profile and  
18 enables users to communicate with each other for the primary purpose  
19 of posting information, comments, messages or images and:

- 20           a. is open to the public,
- 21           b. has more than seventy-five million (75,000,000)  
22               subscribers, and
- 23           c. has not been specifically affiliated with any one  
24               political party or religion from its inception.

1 Social media website shall not include electronic mail or any online  
2 service, application or website consisting primarily of news,  
3 sports, entertainment or other information or content that is not  
4 user-generated but is preselected or curated by the provider and for  
5 which any chat, comment or interactive functionality is incidental  
6 to, directly related to or dependent on the provision of such  
7 content.

8 B. The owner or operator of a social media website who  
9 contracts with users in this state is subject to a private right of  
10 action by a social media website user if the social media website  
11 purposely:

12 1. Deletes or censors a social media website user's political  
13 speech or religious speech; or

14 2. Uses an algorithm to suppress political speech or religious  
15 speech.

16 C. 1. Damages available to a social media website user under  
17 this section shall include:

18 a. damages in an amount not to exceed Seventy-five  
19 Thousand Dollars (\$75,000.00) per intentional deletion  
20 or censoring of the social media website user's  
21 speech,

22 b. actual damages,

23 c. punitive damages if aggravating factors are present,

24 and  
25

1           d.    other applicable forms of equitable relief.

2           2.   The prevailing party in a cause of action under this section  
3 may be awarded costs and reasonable attorney fees.

4           3.   A social media website that restores from deletion or  
5 removes the censoring of a social media website user's speech in a  
6 reasonable amount of time may use such fact to mitigate any damages.

7           D.   A social media website may not use the social media website  
8 user's alleged hate speech as a basis for justification or defense  
9 to the action against the social media website at trial.

10          E.   1.   A social media website shall be immune from liability  
11 under this section if it deletes or censors a social media website  
12 user's speech or uses an algorithm to disfavor or censure speech  
13 that:

- 14           a.   calls for immediate acts of violence,
- 15           b.   is obscene or pornographic in nature,
- 16           c.   is the result of operational error,
- 17           d.   is the result of a court order,
- 18           e.   comes from an inauthentic source or involved false  
19                impersonation,
- 20           f.   entices criminal conduct,
- 21           g.   involves the bullying of minors, or
- 22           h.   violates or misappropriates copyright, trademark or  
23                other intellectual property.

1        2. A social media website shall not be liable under this  
2 section for a social media website user's censoring of the speech of  
3 another social media website user.

4        F. Only users who are eighteen (18) years of age or older shall  
5 have standing to bring an action pursuant to this section.

6        G. The Attorney General may bring a civil cause of action under  
7 this section on behalf of social media website users who reside in  
8 this state whose political speech or religious speech has been  
9 censored by a social media website.

10        SECTION 2. This act shall become effective November 1, 2022.

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12        58-2-3454            MR            1/21/2022 2:36:10 PM  
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