

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3010

By: Walke

AS INTRODUCED

An Act relating to technology; creating a new title; enacting the Filter Bubble Transparency Act of 2022; defining terms; regulating the operation of Internet platforms that use an opaque algorithm; regulating upstream providers and search syndication contracts; granting the Attorney General and district attorneys the power to bring suit for violation of this act; granting courts the ability to enjoin or make orders to prevent the violation of this act; creating a civil penalty; providing for noncodification; 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 not to be codified in the Oklahoma Statutes reads as follows:

In publishing the decennial Oklahoma Statutes, and the cumulative supplements after July 1, 2022, West Publishing Company shall include in such decennial statutes and supplements a new Title 75A, to be designated "Technology".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 151 of Title 75A, unless there is created a duplication in numbering, reads as follows:

1 This act may be known and cited as the "Filter Bubble
2 Transparency Act of 2022".

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 152 of Title 75A, unless there
5 is created a duplication in numbering, reads as follows:

6 As used in this act:

7 1. "Algorithmic ranking system" means a computational process,
8 including one derived from algorithmic decision-making, machine
9 learning, statistical analysis, or other data processing or
10 artificial intelligence techniques, used to determine the order or
11 manner that a set of information is provided to a user on a covered
12 Internet platform, including the ranking of search results, the
13 provision of content recommendations, the display of social media
14 posts, or any other method of automated content selection;

15 2. "Commission" means the Federal Trade Commission;

16 3. "Connected device" means a physical object that:

17 a. is capable of connecting to the Internet, either
18 directly or indirectly through a network, to
19 communicate information at the direction of an
20 individual, and

21 b. has computer processing capabilities for collecting,
22 sending, receiving, or analyzing data;

23 4. "Covered Internet platform" means any public-facing website,
24 Internet application, or mobile application, including a social

1 network site, video sharing service, search engine, or content
2 aggregation service. The term covered Internet platform shall not
3 include a platform that:

4 a. is wholly owned, controlled, and operated by a person
5 that:

6 (1) for the most recent six-month period, did not
7 employ more than five hundred (500) employees,

8 (2) for the most recent three-year period, averaged
9 less than Fifty Million Dollars (\$50,000,000.00)
10 in annual gross receipts, and

11 (3) collects or processes on an annual basis the
12 personal data of less than one million
13 individuals, or

14 b. is operated for the sole purpose of conducting
15 research that is not made for profit either directly
16 or indirectly;

17 5. "Downstream provider" means, with respect to a search
18 syndication contract, the person that receives access to an index of
19 webpages on the Internet from an upstream provider under such
20 contract;

21 6. a. "Input-transparent algorithm" means an algorithmic
22 ranking system that does not use the user-specific data of a user to
23 determine the order or manner that information is furnished to such
24

1 user on a covered Internet platform, unless the user-specific data
2 is expressly provided to the platform by the user for such purpose.

3 b. The term input-transparent algorithm shall include an
4 algorithmic ranking system that uses user-specific
5 data to determine whether a user is old enough to
6 access age-restricted content on a covered Internet
7 platform; provided that the system otherwise meets the
8 requirements of subparagraph a of this paragraph,

9 c. For purposes of subparagraph a of this paragraph,
10 user-specific data that is provided by a user for the
11 express purpose of determining the order or manner
12 that information is furnished to a user on a covered
13 Internet platform,

14 (1) shall include user-supplied search terms,
15 filters, speech patterns (if provided for the
16 purpose of enabling the platform to accept spoken
17 input or selecting the language in which the user
18 interacts with the platform), saved preferences,
19 and the user's current geographical location,

20 (2) shall include data supplied to the platform by
21 the user that expresses the user's desire that
22 information be furnished to them, such as the
23 social media profiles the user follows, the video
24

1 channels the user subscribes to, or other sources
2 of content on the platform the user follows,
3 (3) shall not include the history of the user's
4 connected device, including the user's history of
5 web searches and browsing, geographical
6 locations, physical activity, device interaction,
7 and financial transactions, and
8 (4) shall not include inferences about the user or
9 the user's connected device, without regard to
10 whether such inferences are based on data
11 described in division (1) of this subparagraph;

12 7. a. "Opaque algorithm" means an algorithmic ranking system
13 that determines the order or manner that information
14 is furnished to a user on a covered Internet platform
15 based, in whole or part, on user-specific data that
16 was not expressly provided by the user to the platform
17 for such purpose.

18 b. The term opaque algorithm shall not include an
19 algorithmic ranking system used by a covered Internet
20 platform if:

21 (1) the only user-specific data, including inferences
22 about the user, that the system uses is
23 information relating to the age of the user, and
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1 (2) such information is only used to restrict a
2 user's access to content on the basis that the
3 individual is not old enough to access such
4 content;

5 8. "Search syndication contract" means a contract or
6 subcontract for the sale, license, or other right to access an index
7 of webpages on the Internet for the purpose of operating an Internet
8 search engine;

9 9. "Upstream provider" means, with respect to a search
10 syndication contract, the person that grants access to an index of
11 webpages on the Internet to a downstream provider under the
12 contract; and

13 10. "User-specific data" means information relating to an
14 individual or specific connected device that would not necessarily
15 be true of every individual or device.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 153 of Title 75A, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Beginning one (1) year after the date of enactment of this
20 act, it shall be unlawful:

21 1. For any person to operate a covered Internet platform that
22 uses an opaque algorithm unless the person complies with the
23 requirements of subsection B of this section; or
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1 2. For any upstream provider to grant access to an index of
2 webpages on the Internet under a search syndication contract that
3 does not comply with the requirements of subsection C of this
4 section.

5 B. 1. The requirements of this subsection with respect to a
6 person that operates a covered Internet platform that uses an opaque
7 algorithm are the following:

8 a. the person provides notice to users of the platform
9 that the platform uses an opaque algorithm that makes
10 inferences based on user-specific data to select the
11 content the user sees. Such notice shall be presented
12 in a clear, conspicuous manner on the platform
13 whenever the user interacts with an opaque algorithm
14 for the first time, and may be a one-time notice that
15 can be dismissed by the user, and

16 (b) the person makes available a version of the platform
17 that uses an input-transparent algorithm and enables
18 users to easily switch between the version of the
19 platform that uses an opaque algorithm and the version
20 of the platform that uses the input-transparent
21 algorithm by selecting a prominently placed icon,
22 which shall be displayed wherever the user interacts
23 with an opaque algorithm.

1 2. Paragraph 1 of this subsection shall not apply with respect
2 to an Internet search engine if:

- 3 a. the search engine is operated by a downstream provider
4 with fewer than one thousand employees, and
5 b. the search engine uses an index of webpages on the
6 Internet to which such provider received access under
7 a search syndication contract.

8 C. The requirements of this subsection with respect to a search
9 syndication contract are that:

10 1. As part of the contract, the upstream provider makes
11 available to the downstream provider the same input-transparent
12 algorithm used by the upstream provider for purposes of complying
13 with subparagraph b of paragraph 1 of subsection B of this section;
14 and

15 2. The upstream provider does not impose any additional costs,
16 degraded quality, reduced speed, or other constraint on the
17 functioning of such algorithm when used by the downstream provider
18 to operate an Internet search engine relative to the performance of
19 such algorithm when used by the upstream provider to operate an
20 Internet search engine.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 154 of Title 75A, unless there
23 is created a duplication in numbering, reads as follows:
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1 A. Actions for relief pursuant to this act may be prosecuted
2 exclusively in a court of competent jurisdiction in a civil action
3 brought in the name of the people of the State of Oklahoma by the
4 Attorney General or by any district attorney. This act shall not be
5 deemed to create a private right of action or limit any existing
6 private right of action.

7 B. A court may enjoin a person who knowingly engages, has
8 engaged, or proposes to engage in a violation of this act. The
9 court may make any orders or judgments as may be necessary to
10 prevent a violation of this act.

11 C. A person who knowingly engages, has engaged, or proposes to
12 engage in a violation of this act shall be liable for a civil
13 penalty not to exceed Two Thousand Five Hundred Dollars (\$2,500.00)
14 for each profile on the platform in noncompliance with this act. If
15 the action is brought by the Attorney General, the penalty shall be
16 deposited into the Governmental Budget Account. If the action is
17 brought by a district attorney, the penalty shall be paid to the
18 treasurer of the county in which the judgment was entered.

19 SECTION 6. This act shall become effective November 1, 2022.
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