

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 730

By: Standridge

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; requiring social media website to publish certain standards; requiring consistency of application of certain standards; prohibiting use of algorithm to take certain actions; prohibiting certain justification or defense; establishing immunity from liability for certain actions; clarifying persons with standing for certain action; authorizing Attorney General to bring certain action; prohibiting certain action by social media website against certain qualified candidate; establishing fines for certain violations; requiring notice of certain in-kind contributions; construing provisions; clarifying enforcement; 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:

As used in this act:

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

1 2. "Candidate" means a person who seeks to qualify for
2 nomination or election to or retention in a public office;

3 3. "Deplatform" means the action or practice by a social media
4 website to permanently delete or ban a user or to temporarily delete
5 or ban a user from the social media platform;

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

9 5. "Obscene" means that to the average person, applying
10 contemporary community standards, the dominant theme of the material
11 taken as a whole appeals to prurient interest;

12 6. "Political speech" means speech relating to the state, the
13 government, the body politic, public administration, or government
14 policymaking. Political speech includes speech by the government or
15 candidates for office and any discussion of social issues.
16 Political speech does not include speech concerning the
17 administration or the law of or relating to the civil aspects of
18 government;

19 7. "Religious speech" means a set of unproven answers, truth
20 claims, faith-based assumptions, and naked assertions that attempt
21 to explain the greater questions like how things were created, what
22 humans should or should not be doing, and what happens after death;

23 8. "Shadow ban" means an action by a social media website
24 through any means, whether the action is determined by a natural

1 person or an algorithm, to limit or eliminate the exposure of a user
2 or content or material posted by a user to other users of the social
3 media platform. Shadow ban includes acts of shadow banning by a
4 social media website which are not readily apparent to a user;

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

- 9 a. is open to the public,
- 10 b. has more than seventy-five million (75,000,000)
- 11 subscribers, and
- 12 c. has not been specifically affiliated with any one
- 13 political party or religion from its inception.

14 Social media website shall not include electronic mail or any online
15 service, application, or website consisting primarily of news,
16 sports, entertainment, or other information or content that is not
17 user-generated but is preselected or curated by the provider and for
18 which any chat, comment, or interactive functionality is incidental
19 to, directly related to, or dependent on the provision of such
20 content; and

21 10. "User" means a person who resides or is domiciled in this
22 state and who has an account on a social media website.

1 SECTION 2. NEW LAW

2 A new section of law to be codified
3 in the Oklahoma Statutes as Section 1450.2 of Title 12, unless there
4 is created a duplication in numbering, reads as follows:

5 A. The owner or operator of a social media website who
6 contracts with users in this state is subject to a private right of
7 action by a social media website user if the social media website
8 purposely:

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

11 2. Uses an algorithm to suppress political speech or religious
12 speech.

13 B. 1. Damages available to a social media website user under
14 this section shall include:

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

19 b. actual damages,

20 c. punitive damages if aggravating factors are present,
21 and

22 d. other applicable forms of equitable relief.

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

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

4 C. A social media website shall publish the standards,
5 including detailed definitions, it uses or has used for determining
6 how to censor, shadow ban, or delete a users' political or religious
7 speech.

8 D. A social media website shall apply censorship, shadow ban,
9 and deletion standards in a consistent manner among its users on the
10 platform.

11 E. A social media website may not use an algorithm to censor,
12 shadow ban, or delete political speech posted by or about a user who
13 is known to the social media website to be a candidate as defined by
14 Section 1 of this act, beginning on the date of qualification and
15 ending on the date of the election or the date the candidate ceases
16 to be a candidate. A social media website shall provide each user a
17 method by which the user may be identified as a qualified candidate
18 and which provides sufficient information to allow the social media
19 platform to confirm the user's qualification as a candidate.

20 F. A social media website may not take any action to censor,
21 deplatform, or shadow ban a journalistic enterprise based on the
22 content of its publication or broadcast.
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1 G. A social media website may not use the social media website
2 user's alleged hate speech as a basis for justification or defense
3 to the action against the social media website at a trial.

4 H. 1. A social media website shall be immune from liability
5 under this section if it deletes or censors a social media website
6 user's speech or uses an algorithm to disfavor or censure speech
7 that:

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

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

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

23 J. The Attorney General may bring a civil cause of action under
24 this section on behalf of social media website users who reside in
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1 this state whose political speech or religious speech has been
2 censored by a social media website.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1450.3 of Title 12, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A social media website may not willfully deplatform a
7 candidate for office who is known by the social media website to be
8 a candidate, beginning on the date of qualification and ending on
9 the date of the election or the date the candidate ceases to be a
10 candidate. A social media website shall provide each user a method
11 by which the user may be identified as a qualified candidate and
12 which provides sufficient information to allow the social media
13 platform to confirm the user's qualification as a candidate.

14 B. Upon a finding of a violation of subsection A of this
15 section, the social media platform may be fined Two Hundred Fifty
16 Thousand Dollars (\$250,000.00) per day for a candidate for statewide
17 office and Twenty-five Thousand Dollars (\$25,000.00) per day for
18 candidates for other offices.

19 C. A social media website that willfully provides free
20 advertising for a candidate shall inform the candidate of such in-
21 kind contribution. Posts, content, material, and comments by
22 candidates which are shown on the social media website in the same
23 or similar way as other users' posts, content, material and comments
24 shall not be considered free advertising.

D. The provisions of this section may only be enforced to the extent not inconsistent with federal law.

SECTION 4. This act shall become effective November 1, 2023.

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