

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1028

By: Representative Rye

For An Act To Be Entitled

AN ACT TO BE ENTITLED THE "STOP SOCIAL MEDIA CENSORSHIP ACT"; CONCERNING SOCIAL MEDIA WEBSITES; ESTABLISHING A CAUSE OF ACTION; AND FOR OTHER PURPOSES.

Subtitle

TO BE ENTITLED THE "STOP SOCIAL MEDIA CENSORSHIP ACT"; CONCERNING SOCIAL MEDIA WEBSITES; AND ESTABLISHING A CAUSE OF ACTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, Chapter 118, is amended to add an additional section to read as follows:

16-118-116. Civil action against a social media website.

(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;

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

(4)(A) "Political speech" means speech relating to:

(i) The state;



- (ii) The government;
- (iii) The body politic;
- (iv) Public administration; or
- (v) Government policy making.

(B) "Political speech" includes speech by the government or candidates for office and any discussion of social issues.

(C) "Political speech" does not include speech concerning the administration or the law of or relating to the civil aspects of government;

(5) "Public utility" means a business organization performing a public service and subject to special governmental regulation;

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

(7) "Social media website" means a website or application that enables users to communicate with each other by posting information, comments, messages, or images and:

(A) Is open to the public;

(B) Has more than seventy-five million (75,000,000) subscribers; and

(C) Has not been specifically affiliated with any one (1) religion or political party from its inception.

(b) A social media website is considered a public utility under this section.

(c)(1)(A) The owner or operator of a social media website who resides in this state is subject to a private right of action by a social media website user if the social media website purposely:

(i) Deletes or censors a social media website user's religious speech or political speech; or

(ii) Uses an algorithm to suppress political speech or religious speech.

(B) Damages available to a social media website user under this section include without limitation:

(i) A minimum of seventy-five thousand dollars (\$75,000) per purposeful deletion or censoring of the social media website

user's speech;

(ii) Actual damages;

(iii) Punitive damages if aggravating factors are

present; and

(iv) Other forms of equitable relief.

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

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

(d) A social media website may not use the social media website user's alleged hate speech as a basis for justification or defense to the social media website's actions at trial.

(e)(1) A social media website is immune from liability under this section if it deletes or censors a social media website user's speech or uses an algorithm to disfavor or censure speech that calls for immediate acts of violence, is obscene, or is pornographic in nature.

(2) A social media website is not liable under this section for a social media website user's censoring of another social media website user's speech.

(f) A social media website that is paid by a social media website user to promote religious speech or political speech may do so.

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