

ASSEMBLY, No. 5798

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED NOVEMBER 7, 2019

Sponsored by:

Assemblyman ROBERT AUTH
District 39 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman DiMaso, Assemblymen Peters and S.Kean

SYNOPSIS

“Stop Social Media Censorship Act”; creates private right of action for users of social media websites whose political or religious speech has been deleted or censored by social media websites.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning social media and religious and political speech
2 and supplementing Title 56 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Stop Social
8 Media Censorship Act.”

9

10 2. As used in P.L. , c. (C.) (pending before the
11 Legislature as this bill):

12 “Algorithm” means a set of computer coded instructions
13 designed to perform a specific task on a social media website.

14 “Hate speech” means a word or phrase concerning content that
15 an individual finds offensive based the individual’s morality.

16 “Obscene” means material that a reasonable person, applying
17 contemporary community ethical standards, would find that, taken
18 as a whole, the dominant theme of the material appeals to prurient
19 interests.

20 “Political speech” means speech relating to the federal, State, or
21 local government, body politic, or public administration as it relates
22 to governmental policymaking and includes, but is not limited to,
23 speech made by a candidate for office and any discussion of social
24 issues. “Political speech” shall not include speech concerning the
25 administration of law or civil aspects of government.

26 “Religious speech” means a set of unproven answers, truth
27 claims, faith-based assumptions, and assertions that attempt to
28 explain greater questions concerning how the world was created,
29 what constitutes right and wrong actions by humans, and what
30 happens after death.

31 “Social media website” means an Internet website or mobile
32 application that enables users to communicate with each other by
33 posting information, comments, messages, or images, and shall
34 meet the following criteria:

35 is open to the public;

36 has more than 75 million subscribers; and

37 from its inception, has not been specifically affiliated with any
38 one religion or political party.

39 “User” means a social media website subscriber in this State who
40 is at least 18 years of age.

41

42 3. a. The owner or operator of a social media website shall be
43 subject to a private right of action by a user if the social media
44 website purposefully:

45 (1) deletes or censors the user’s political or religious speech; or

46 (2) uses an algorithm to disfavor or censure the user’s political
47 or religious speech.

48 b. A user may be awarded all of the following damages:

- 1 (1) a minimum of \$75,000 in statutory damages per violation of
2 subsection a. of this section;
- 3 (2) actual damages;
- 4 (3) punitive damages; and
- 5 (4) any other form of equitable relief as determined by a court of
6 competent jurisdiction.
- 7 c. The prevailing party in a cause of action pursuant to this
8 section may be awarded costs and reasonable attorney fees.
- 9 d. A court or jury shall consider whether the owner or operator
10 of a social media website restores from deletion or removes the
11 censoring of a user’s speech in a reasonable time in determining
12 damages sought by a user pursuant to subsection b. of this section.
- 13 e. A court or jury shall not consider evidence of a user’s
14 alleged hate speech on the social media website as a basis for
15 justification or defense of the social media website’s actions
16 pursuant to subsection a. of this section.
- 17
- 18 4. a. The Attorney General may bring a civil cause of action
19 pursuant to section 3 of P.L. , c. (C.) (pending before the
20 Legislature as this bill) on behalf of a user whose political or
21 religious speech has been censored, deleted, or disfavored by a
22 social media website.
- 23 b. The provisions of subsection a. of this section shall not
24 apply to a social media website that deletes or censors a user’s
25 speech or that uses an algorithm to disfavor or censure speech that:
- 26 (1) calls for immediate acts of violence;
- 27 (2) is obscene or pornographic in nature;
- 28 (3) is the result of operational error;
- 29 (4) is the result of a court order;
- 30 (5) comes from an inauthentic source or involves false
31 impersonation;
- 32 (6) entices criminal conduct;
- 33 (7) involves minor users bullying minor users; or
- 34 (8) a user censoring another user.
- 35
- 36 5. This act shall take effect immediately.
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39 STATEMENT

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41 This bill creates a private right of action for users of a social
42 media website, as those terms are defined in the bill, whose political
43 or religious speech has been deleted or censored by the social media
44 website or whose political or religious speech has been disfavored
45 or censored by an algorithm used by the social media website.

46 A user may be awarded all of the following damages:

- 1 1) a minimum of \$75,000 in statutory damages per purposeful
- 2 deletion or censoring of the user's speech;
- 3 2) actual damages;
- 4 3) punitive damages; and
- 5 4) any other form of equitable relief as determined by a court of
- 6 competent jurisdiction.

7 The bill provides that the prevailing party in a cause of action

8 may be awarded costs and reasonable attorney fees.

9 The bill provides that a court or jury is required to consider

10 evidence that the owner or operator of a social media website

11 restored from deletion or removed the censoring of a user's speech

12 in a reasonable time when determining damages sought by a user. A

13 court may not consider evidence of a user's alleged hate speech on

14 the social media website as a basis for justification or defense of the

15 social media website's actions.

16 The bill provides that the Attorney General may bring a civil

17 cause of action on behalf of a user whose political or religious

18 speech has been censored by a social media website under certain

19 circumstances provided in the bill.