

1 A bill to be entitled
2 An act relating to social media platforms; amending s.
3 501.2041, F.S.; providing legislative findings;
4 revising the definition of the term "social media
5 platform"; conforming cross-references; creating s.
6 501.2042, F.S.; providing requirements for social
7 media platforms relating to acceptable use policies,
8 quarterly transparency reports, and a complaint
9 system; requiring social media platforms to take
10 specified actions upon receiving notices of illegal
11 activity or content; authorizing the Attorney General
12 to bring an action against social media platforms and
13 to recover certain costs; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsections (1) through (10) of section
18 501.2041, Florida Statutes, are renumbered as subsections (2)
19 through (11), respectively, present subsections (1), (3), (6),
20 and (7) are amended, and a new subsection (1) is added to that
21 section, to read:

22 501.2041 Unlawful acts and practices by social media
23 platforms.—

24 (1) The Legislature finds that:

25 (a) Each person in the state has a fundamental interest in

26 | the free exchange of ideas and information, which includes the
27 | freedom to share and receive ideas and information.

28 | (b) The state has a fundamental interest in protecting the
29 | free exchange of ideas and information in the state.

30 | (c) Social media platforms function as common carriers,
31 | are affected with a public interest, are central public forums
32 | for public debate, and have enjoyed governmental support in the
33 | United States.

34 | (d) Social media platforms with the largest number of
35 | users are common carriers by virtue of their market dominance.

36 | ~~(2)-(1)~~ As used in this section and s. 501.2042, the term:

37 | (a) "Algorithm" means a mathematical set of rules that
38 | specifies how a group of data behaves and that will assist in
39 | ranking search results and maintaining order or that is used in
40 | sorting or ranking content or material based on relevancy or
41 | other factors instead of using published time or chronological
42 | order of such content or material.

43 | (b) "Censor" includes any action taken by a social media
44 | platform to delete, regulate, restrict, edit, alter, inhibit the
45 | publication or republication of, suspend a right to post,
46 | remove, or post an addendum to any content or material posted by
47 | a user. The term also includes actions to inhibit the ability of
48 | a user to be viewable by or to interact with another user of the
49 | social media platform.

50 | (c) "Deplatform" means the action or practice by a social

51 media platform to permanently delete or ban a user or to
52 temporarily delete or ban a user from the social media platform
53 for more than 14 days.

54 (d) "Journalistic enterprise" means an entity doing
55 business in Florida that:

56 1. Publishes in excess of 100,000 words available online
57 with at least 50,000 paid subscribers or 100,000 monthly active
58 users;

59 2. Publishes 100 hours of audio or video available online
60 with at least 100 million viewers annually;

61 3. Operates a cable channel that provides more than 40
62 hours of content per week to more than 100,000 cable television
63 subscribers; or

64 4. Operates under a broadcast license issued by the
65 Federal Communications Commission.

66 (e) "Post-prioritization" means action by a social media
67 platform to place, feature, or prioritize certain content or
68 material ahead of, below, or in a more or less prominent
69 position than others in a newsfeed, a feed, a view, or in search
70 results. The term does not include post-prioritization of
71 content and material of a third party, including other users,
72 based on payments by that third party, to the social media
73 platform.

74 (f) "Shadow ban" means action by a social media platform,
75 through any means, whether the action is determined by a natural

76 person or an algorithm, to limit or eliminate the exposure of a
77 user or content or material posted by a user to other users of
78 the social media platform. This term includes acts of shadow
79 banning by a social media platform which are not readily
80 apparent to a user.

81 (g) "Social media platform" means any information service,
82 system, Internet search engine, or access software provider
83 that:

84 1. Provides or enables computer access by multiple users
85 to a computer server, including an Internet platform or a social
86 media site;

87 2. Operates as a sole proprietorship, partnership, limited
88 liability company, corporation, association, or other legal
89 entity;

90 3. Does business in the state; and

91 4. ~~Satisfies at least one of the following thresholds:~~

92 ~~a. Has annual gross revenues in excess of \$100 million, as~~
93 ~~adjusted in January of each odd-numbered year to reflect any~~
94 ~~increase in the Consumer Price Index.~~

95 ~~b.~~ Has at least 100 million monthly individual platform
96 participants globally.

97
98 The term does not include any information service, system,
99 Internet search engine, or access software provider operated by
100 a company that owns and operates a theme park or entertainment

101 complex as defined in s. 509.013; electronic mail; or any online
 102 service, application, or website that consists primarily of
 103 news, sports, entertainment, or other information or content
 104 that is not user generated but is preselected by the provider
 105 and for which any chat, comment, or interactive functionality is
 106 incidental to, directly related to, or dependent upon the
 107 provision of the news, sports, entertainment, or other
 108 information or content.

109 (h) "User" means a person who resides or is domiciled in
 110 this state and who has an account on a social media platform,
 111 regardless of whether the person posts or has posted content or
 112 material to the social media platform.

113 (4)~~(3)~~ For purposes of subparagraph (3) (d) 1. ~~(2) (d) 1.~~, a
 114 notification must:

115 (a) Be in writing.

116 (b) Be delivered via electronic mail or direct electronic
 117 notification to the user within 7 days after the censoring
 118 action.

119 (c) Include a thorough rationale explaining the reason
 120 that the social media platform censored the user.

121 (d) Include a precise and thorough explanation of how the
 122 social media platform became aware of the censored content or
 123 material, including a thorough explanation of the algorithms
 124 used, if any, to identify or flag the user's content or material
 125 as objectionable.

126 ~~(7)(6)~~ A user may only bring a private cause of action for
127 violations of paragraph (3)(b) ~~(2)(b)~~ or subparagraph (3)(d)1.
128 ~~(2)(d)1.~~ In a private cause of action brought under paragraph
129 (3)(b) ~~(2)(b)~~ or subparagraph (3)(d)1. ~~(2)(d)1.~~, the court may
130 award the following remedies to the user:

131 (a) Up to \$100,000 in statutory damages per proven claim.

132 (b) Actual damages.

133 (c) If aggravating factors are present, punitive damages.

134 (d) Other forms of equitable relief, including injunctive
135 relief.

136 (e) If the user was deplatformed in violation of paragraph
137 (3)(b) ~~(2)(b)~~, costs and reasonable attorney fees.

138 ~~(8)(7)~~ For purposes of bringing an action in accordance
139 with subsections ~~(5) and (6)~~ and (7), each failure to comply
140 with the individual provisions of subsection (3) ~~(2)~~ shall be
141 treated as a separate violation, act, or practice. For purposes
142 of bringing an action in accordance with subsections ~~(5) and (6)~~
143 and (7), a social media platform that censors, shadow bans,
144 deplatforms, or applies post-prioritization algorithms to
145 candidates and users in the state is conclusively presumed to be
146 both engaged in substantial and not isolated activities within
147 the state and operating, conducting, engaging in, or carrying on
148 a business, and doing business in this state, and is therefore
149 subject to the jurisdiction of the courts of the state.

150 Section 2. Section 501.2042, Florida Statutes, is created

151 to read:

152 501.2042 Acceptable use policy; transparency report;
153 complaint procedures; appeals.-

154 (1) A social media platform must publish an acceptable use
155 policy in a location that is easily accessible to a user.

156 (2) A social media platform's acceptable use policy must:

157 (a) Reasonably inform users about the types of content
158 allowed on the social media platform.

159 (b) Describe the steps the social media platform will take
160 to ensure that content complies with the acceptable use policy.

161 (c) Describe the means by which users may notify the
162 social media platform of content that potentially violates the
163 acceptable use policy, illegal content, or illegal activity,
164 which includes:

165 1. A live company representative who is available 8 hours
166 a day, 5 days a week to take user complaints through a toll-free
167 telephone number.

168 2. An e-mail address or relevant complaint intake
169 mechanism to handle user complaints.

170 3. A complaint system as described in subsection (5).

171 (3) As part of a social media platform's acceptable use
172 policy, the social media platform must publish a quarterly
173 transparency report that includes, with respect to the preceding
174 3-month period:

175 (a) The total number of instances in which the social

176 media platform was alerted to illegal content, illegal activity,
 177 or content that potentially violates the acceptable use policy
 178 by:

- 179 1. A user;
- 180 2. An employee of or a person contracting with the social
 181 media platform; or

- 182 3. An internal automated detection tool;
- 183 (b) Subject to subsection (4), the total number of
 184 instances in which the social media platform took action with
 185 respect to illegal content, illegal activity, or content that
 186 potentially violates the acceptable use policy, including:

- 187 1. Content removal;
- 188 2. Content demonetization;
- 189 3. Post-prioritization;
- 190 4. The addition of any content assessment;
- 191 5. Account suspension;
- 192 6. Account removal; or
- 193 7. Any other action taken in accordance with the social
 194 media platform's acceptable use policy;

- 195 (c) The country in which the user who provided the content
 196 resides for each instance described in paragraph (b);

- 197 (d) The total number of coordinated campaigns, if
 198 applicable;

- 199 (e) The total number of instances in which a user appealed
 200 the social media platform's decision to remove the user's

201 content that potentially violates the acceptable use policy;
 202 (f) The percentage of appeals described in paragraph (e)
 203 that resulted in the restoration of the content; and
 204 (g) A description of each tool, practice, action, or
 205 technique used in enforcing the acceptable use policy.
 206 (4) (a) The information published by the social media
 207 platform in subsection (3) must be categorized by:
 208 1. Type of rule violated; and
 209 2. Source of the alert of illegal content, illegal
 210 activity, or content that potentially violates the acceptable
 211 use policy, including by:
 212 a. A government;
 213 b. A user;
 214 c. An internal automated detection tool;
 215 d. A coordinated effort with other social media platforms;
 216 or
 217 e. An employee of or a person contracting with the social
 218 media platform.
 219 (b) A social media platform must publish the transparency
 220 report information described in subsection (3) with an open
 221 license, in a machine-readable and open format, and in a
 222 location that is easily accessible to users.
 223 (5) A social media platform must provide an easily
 224 accessible complaint system to enable a user to submit a
 225 complaint in good faith and keep track of the status of the

226 complaint, including a complaint regarding:
227 (a) Illegal content or illegal activity; or
228 (b) A decision made by the social media platform to remove
229 content posted by the user.

230 (6) (a) If a social media platform receives notice of
231 illegal content or illegal activity on the social media
232 platform, the social media platform must make a good faith
233 effort to evaluate the legality of the content or activity
234 within 24 hours after receiving the notice, subject to
235 reasonable exceptions based on concerns about the legitimacy of
236 the notice.

237 (b) Except as provided in paragraph (c), if a social media
238 platform removes content based on a violation of the platform's
239 acceptable use policy, the social media platform must,
240 concurrently with the removal:

241 1. Notify the user who provided the content of the removal
242 and explain why the content was removed;

243 2. Allow the user to appeal the social media platform's
244 decision to remove the content; and

245 3. Provide written notice to the user who provided the
246 content of:

247 a. The determination regarding an appeal requested under
248 subparagraph 2.; and

249 b. If the social media platform reverses its decision to
250 remove the content, the reason for the reversal.

251 (c) A social media platform is not required to provide a
252 user with notice of or an opportunity to appeal under paragraph
253 (b) if the social media platform:

254 1. Is unable to contact the user after taking reasonable
255 steps to make contact; or

256 2. Knows that the content that potentially violates the
257 acceptable use policy relates to an ongoing law enforcement
258 investigation.

259 (7) If a social media platform receives a user complaint
260 that the social media platform removed content provided by a
261 user from the platform that the user believes was not content
262 that potentially violates the acceptable use policy, the social
263 media platform shall, no later than the 14th day after the date
264 on which the platform receives the complaint:

265 (a) Review the content;

266 (b) Determine whether the content adheres to the social
267 media platform's acceptable use policy;

268 (c) Take appropriate steps based on the determination made
269 under paragraph (b); and

270 (d) Notify the user regarding the determination made under
271 paragraph (b) and the steps taken under paragraph (c).

272 (8)(a) The Attorney General may bring an action against a
273 social media platform to enjoin a violation of this section.

274 (b) If a court grants an injunction in an action brought
275 under this section, the Attorney General may recover costs

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276 | incurred in bringing the action, including reasonable attorney
277 | fees and reasonable investigative costs.

278 | Section 3. This act shall take effect July 1, 2022.