Sixty-seventh Legislative Assembly of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representatives Kading, Bellew, Jones, B. Koppelman, Schatz, Toman

- 1 A BILL for an Act to permit civil actions against social media sites for censoring speech.
- 2 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:
- 3 **SECTION 1**.

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- 4 Social media site censorship Civil action.
- 5 1. As used in this section:
- a. "Interactive computer service" means any information service, system, or access
 software provider that provides or enables computer access by multiple users to
 a computer server, including specifically a service or system that provides access
 - to the internet and such systems operated or services offered by libraries or
- 10 <u>educational institutions.</u>
- 11 <u>b.</u> "Social media site" means a website through which users are able to share and
- 12 generate content and find and connect with other users of common interests.
- 13 <u>2. If an interactive computer service provider restricts, censors, or suppresses</u>
- information that does not pertain to obscene, lewd, lascivious, filthy, excessively
- violent, harassing, or otherwise objectionable subject matter, the interactive computer
- service provider is liable in a civil action for damages to the person whose speech is
- restricted, censored, or suppressed, and to any person who reasonably otherwise
- would have received the writing, speech, or publication. This section only applies if the
- 19 <u>interactive computer service provider:</u>
- 20 <u>a. Is immune from civil liability under federal law;</u>
- 21 <u>b.</u> <u>Is not considered a publisher;</u>
- 22 <u>c. Has over one million users; and</u>
- d. Is a provider of a social media site.

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- 1 A person whose writing, speech, or publication is restricted, censored, or suppressed 2 under this section, or a person that reasonably otherwise would have received the 3 writing, speech, or publication, is entitled to civil damages including treble damages for 4 compensatory, consequential, and incidental damages. The court also may award 5 punitive damages. 6 <u>4.</u> An action for civil damages under this section may be brought in the district court in 7 the county where the person being infringed, censored, or suppressed, or the person 8 who reasonably would have otherwise received the writing, speech, or publication, 9 resides. 10 The district court shall award attorney's fees to a prevailing plaintiff. 5. 11 Immune from civil liability in subsection 2 means an action by an interactive computer <u>6.</u> 12 service provider: 13 Taken voluntarily in good faith to restrict access to or availability of material that a. 14 the provider or user considers to be obscene, lewd, lascivious, filthy, excessively 15 violent, harassing, or otherwise objectionable, regardless whether the material is 16 constitutionally protected; or 17 <u>b.</u> Taken to enable or make available to information content providers or others the 18 technical means to restrict access to material described in subdivision a. 19 <u>7.</u> An interactive computer service provider may state affirmatively in the provider's terms 20 of service that the provider is a publisher. If the statement is agreed upon by the 21 person that is restricted, censored, or suppressed, and any person who reasonably 22
 - not apply. 8. Notwithstanding subsection 2, an interactive computer service provider may limit content to subject matter expressly stated in the provider's terms of service.

would have otherwise received the writing, speech, or publication, subsection 2 does