

1 ENGROSSED SENATE
2 BILL NO. 383

By: Standridge, Bullard and
Jett of the Senate

3 and

4 West (Kevin) and McDugle of
5 the House

6
7 [censorship of social media - cause of action -
8 award of certain costs and fees - immunity from
9 liability - codification - effective date]
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1450.1 of Title 12, unless there
14 is created a duplication in numbering, reads as follows:

15 A. As used in this section:

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

18 2. "Hate speech" means a phrase concerning content that an
19 individual arbitrarily finds offensive based on his or her personal
20 moral code;

21 3. "Obscene" means that to the average person, applying
22 contemporary community standards, the dominant theme of the material
23 taken as a whole appeals to prurient interest;
24

1 4. "Political speech" means speech relating to the state, the
2 government, the body politic, public administration or government
3 policymaking. Political speech includes speech by the government or
4 candidates for office and any discussion of social issues.
5 Political speech does not include speech concerning the
6 administration or the law of or relating to the civil aspects of
7 government;

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

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

- 17 a. is open to the public,
- 18 b. has more than seventy-five million (75,000,000)
19 subscribers, and
- 20 c. has not been specifically affiliated with any one
21 political party or religion from its inception.

22 "Social media website" shall not include electronic mail or any
23 online service, application or website consisting primarily of news,
24 sports, entertainment or other information or content that is not

1 user-generated but is preselected or curated by the provider and for
2 which any chat, comment or interactive functionality is incidental
3 to, directly related to or dependent on the provision of such
4 content.

5 B. 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 C. 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 D. A social media website may not use the social media website
5 user's alleged hate speech as a basis for justification or defense
6 to the action against the social media website at trial.

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

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

21 2. A social media website shall not be liable under this
22 section for a social media website user's censoring of the speech of
23 another social media website user.

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

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

7 SECTION 2. This act shall become effective November 1, 2021.

8 Passed the Senate the 11th day of March, 2021.

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Presiding Officer of the Senate

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12 Passed the House of Representatives the ____ day of _____,
13 2021.

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Presiding Officer of the House
of Representatives

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