ASSEMBLY, No. 578

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
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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

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 2/24/2020)

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

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

1. This act shall be known and may be cited as the "Stop Social Media Censorship Act."

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

"Algorithm" means a set of computer coded instructions designed to perform a specific task on a social media website.

"Hate speech" means a word or phrase concerning content that an individual finds offensive based the individual's morality.

"Obscene" means material that a reasonable person, applying contemporary community ethical standards, would find that, taken as a whole, the dominant theme of the material appeals to prurient interests.

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

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

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

is open to the public;

has more than 75 million subscribers; and

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

"User" means a social media website subscriber in this State who is at least 18 years of age.

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

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

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

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

(1) a minimum of $75,000 in statutory damages per violation of subsection a. of this section;

(2) actual damages;

(3) punitive damages; and

(4) any other form of equitable relief as determined by a court of competent jurisdiction.

c. The prevailing party in a cause of action pursuant to this section may be awarded costs and reasonable attorney fees.

d. A court or jury shall consider whether the owner or operator of a social media website restores from deletion or removes the censoring of a user's speech in a reasonable time in determining damages sought by a user pursuant to subsection b. of this section.

e. A court or jury shall not consider evidence of a user's alleged hate speech on the social media website as a basis for justification or defense of the social media website's actions pursuant to subsection a. of this section.

4. a. The Attorney General may bring a civil cause of action pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) on behalf of a user whose political or religious speech has been censored, deleted, or disfavored by a social media website.

b. The provisions of subsection a. of this section shall not apply to a social media website that deletes or censors a user's speech or that uses an algorithm to disfavor or censure speech that:

(1) calls for immediate acts of violence;

(2) is obscene or pornographic in nature;

(3) is the result of operational error;

(4) is the result of a court order;

(5) comes from an inauthentic source or involves false impersonation;

(6) entices criminal conduct;

(7) involves minor users bullying minor users; or

(8) a user censoring another user.

5. This act shall take effect immediately.

STATEMENT

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

A user may be awarded all of the following damages:

1) a minimum of $75,000 in statutory damages per purposeful deletion or censoring of the user's speech;

2) actual damages;

3) punitive damages; and

4) any other form of equitable relief as determined by a court of competent jurisdiction.

The bill provides that the prevailing party in a cause of action may be awarded costs and reasonable attorney fees.

The bill provides that a court or jury is required to consider evidence that the owner or operator of a social media website restored from deletion or removed the censoring of a user's speech in a reasonable time when determining damages sought by a user. A court may not consider evidence of a user's alleged hate speech on the social media website as a basis for justification or defense of the social media website's actions.

The bill provides that the Attorney General may bring a civil cause of action on behalf of a user whose political or religious speech has been censored by a social media website under certain circumstances provided in the bill.