ASSEMBLY, No. 5860

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 9, 2021

Sponsored by:
Assemblywoman SERENA DIMASO
District 13 (Monmouth)
Assemblyman ERIK PETERSON
District 23 (Hunterdon, Somerset and Warren)

Co-Sponsored by:
Assemblymen McGuckin, Catalano, Rooney, DePhillips, McClellan and Simonsen

SYNOPSIS

Prohibits selective suspension of candidates for elective office by social media websites.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/14/2021)

AN ACT concerning the selective suspension of candidates for elective office by social media websites and supplementing Title 19 of the Revised Statutes.

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

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

"Candidate" means an individual seeking election to a public office of the State or any political subdivision thereof at any election. "Candidate" includes an individual who runs unopposed, loses an election, withdraws from an election, or raises or spends money, or both, to run for elected office but does not appear on the ballot.

"Selectively suspend" means the action or practice by a social media website to permanently delete or ban a user or to temporarily delete or ban a user for more than 60 days.

"Social media website " means any information service, Internet search engine, or access software provider that does business in the State of New Jersey, and provides or enables computer access by multiple users to a computer server, including an Internet website or a social media website, or both, which is a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners, and that satisfies one or more of the following thresholds:

a. is open to the public;

b. has annual gross revenues in excess of $100 million, as adjusted in January of every odd-numbered year to reflect any increase in the Consumer Price Index, as defined in section 16 of P.L.2007, c.335 (C.39:2A-36.1); and

c. has at least 100 million monthly users globally.

"User" means a person who has an account on a social media website, regardless of whether the person posts or has posted content or material to the social media website.

2. a. Notwithstanding the provisions of State law, rule, regulation, or order to the contrary, and consistent with federal law, a social media website shall not willfully selectively suspend a candidate for office who is known by the social media website to be a candidate, beginning on the date of the qualification and ending on the date of the election or the date the candidate ceases to be a candidate. A social media website shall provide each user a method by which the user may be identified as a qualified candidate and which provides sufficient information to allow the social media website to confirm the user's qualification by reviewing the Internet

website of the Division of Elections in the Department of State or the Internet website of the local board of elections.

b. A social media website that willfully provides free advertising for a candidate shall inform the candidate of the in-kind contribution. Posts, content, material, and comments by candidates that are shown on the social media website in the same or similar way as other users' posts, content, material, and comments shall not be considered free advertising.

3. Upon a finding of a violation of section 2 of this act by the Election Law Enforcement Commission, in addition to any remedies available pursuant to Title 19 of the Revised Statutes, the commission may assess a social media website a penalty $250,000 per day for a violation affecting a candidate for Statewide office and $25,000 per day for a violation affecting a candidate for other offices.

4. This act shall take effect immediately.

STATEMENT

This bill, notwithstanding the provisions of State law, and consistent with federal law, prohibits a social media website, as defined in the bill, from willfully selectively suspending, commonly referred to as "deplatforming," a candidate for office who is known by the social media website to be a candidate, beginning on the date of the qualification and ending on the date of the election or the date the candidate ceases to be a candidate. A social media website is to provide each user of the social media website a method by which the user may be identified as a qualified candidate and which provides sufficient information to allow the social media website to confirm the user's qualification by reviewing the Internet website of the Division of Elections in the Department of State or the Internet website of the local board of elections.

The bill provides that a social media website that willfully provides free advertising for a candidate is to inform the candidate of that in-kind contribution. Posts, content, material, and comments by candidates that are shown on the social media website in the same or similar way as other users' posts, content, material, and comments are not to be considered free advertising.

The bill provides that, upon finding a violation of the provisions of the bill by the Election Law Enforcement Commission, in addition to any remedies available pursuant to State law, the commission may assess a social media website a penalty of $250,000 per day for a violation affecting a candidate for Statewide office and $25,000 per day for a violation affecting a candidate for other offices.