

2021 Regular Session

SENATE BILL NO. 196

BY SENATOR MORRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COMMERCIAL REGULATIONS. Provides relative to regulation of speech on social media. (gov sig)

1 AN ACT

2 To enact Chapter 15 of Title 45 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 45:1701 through 1704, relative to social media; to provide relative to social
4 media speech; to provide certain definitions, prohibitions, procedures, and
5 requirements; to authorize certain actions and damages for violations; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 15 of Title 45 of the Revised Statutes of 1950, to be comprised
9 of R.S. 45:1701 through 1704, are hereby enacted to read as follows:

10 **CHAPTER 15. STOP SOCIAL MEDIA CENSORSHIP ACT**

11 **§1701. Short title**

12 **This Chapter shall be known and may be cited as the "Stop Social Media**
13 **Censorship Act".**

14 **§ 1702. Definitions**

15 **As used in this Chapter:**

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

1 **(2) "Hate speech" means a phrase concerning content that an individual**
2 **finds offensive based on his moral code.**

3 **(3) "Obscene" means that an average person applying contemporary**
4 **community standards would find that, taken as a whole, the dominant theme of**
5 **the material appeals to prurient interests.**

6 **(4) "Political speech" means speech relating to the state, government,**
7 **body politic, or public administration as it relates to governmental**
8 **policymaking. The term includes speech by the government or candidates for**
9 **office and any discussion of social issues. The term does not include speech**
10 **concerning the administration, law, or civil aspects of government.**

11 **(5) "Religious speech" means a set of unproven answers, truth claims,**
12 **faith-based assumptions, and naked assertions that attempt to explain the**
13 **greater questions such as how the world was created, what constitutes right and**
14 **wrong actions by humans, and what happens after death.**

15 **(6) "Social media website" means an internet website or application that**
16 **enables users to communicate with each other by posting information,**
17 **comments, messages or images that meet all of the following requirements:**

18 **(a) Is open to the public.**

19 **(b) Has more than seventy-five million subscribers.**

20 **(c) From its inception has not been specifically affiliated with any one**
21 **religion or political party.**

22 **(7) "User" means a resident of this state who is a natural person eighteen**
23 **years of age or older.**

24 **§1703. Violations; private actions; civil actions; damages; exceptions**

25 **A. The owner or operator of a social media website who contracts with**
26 **a social media website user in this state is subject to a private right of action by**
27 **the user if the social media website knowingly does the following:**

28 **(1) Deletes or censors the user's religious speech or political speech.**

29 **(2) Uses an algorithm to disfavor or censor the user's religious speech or**

1 political speech.

2 B. A social media website user may be awarded all of the following
3 damages for a violation of this Section:

4 (1) Actual damages.

5 (2) In addition to actual damages, up to seventy-five thousand dollars in
6 statutory damages.

7 (3) If aggravating factors are present, punitive damages.

8 (4) Injunctive and other forms of equitable relief.

9 C. The prevailing party in a cause of action under this Section may be
10 awarded court costs and reasonable attorney fees.

11 D. A social media website that restores the deleted or removed speech of
12 the user in a reasonable amount of time may use that fact to mitigate any
13 damages.

14 E. A social media website shall not use the social media website's user's
15 alleged hate speech as a basis for justification or defense of the social media
16 website's actions at trial.

17 F. The attorney general may bring a civil cause of action pursuant to this
18 Section on behalf of a social media website user whose religious speech or
19 political speech has been censored by a social media website.

20 G. This Section shall not apply to any of the following:

21 (1) A social media website that deletes or censors a social media website
22 user's speech or that uses an algorithm to disfavor or censure speech that
23 includes any of the following:

24 (a) Calls for immediate acts of violence.

25 (b) Is obscene or pornographic in nature.

26 (c) Is the result of an operational error.

27 (d) Is the result of a court order.

28 (e) Is from an inauthentic source or involves false impersonation.

29 (f) Entices criminal conduct.

1 **(g) Involves the bullying of minors.**

2 **(2) A social media website user's censoring of another social media**
3 **website user's speech.**

4 **§1704. Legislative findings**

5 **A. This state has a compelling interest in holding certain social media**
6 **websites to a higher standard when such websites have substantially created a**
7 **digital public square.**

8 **B. The state has an interest in protecting and assisting residents in their**
9 **exercise of rights of religious and political speech.**

10 Section 2. This Act shall become effective upon signature by the governor or, if not
11 signed by the governor, upon expiration of the time for bills to become law without signature
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
14 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Elizabeth O'Quin.

DIGEST

SB 196 Original 2021 Regular Session Morris

Proposed law enacts the "Stop Social Media Censorship Act".

Proposed law defines the following terms:

- (1) An "algorithm" means a set of instructions designed to perform specific tasks.
- (2) "Hate speech" means a phrase that has content that an individual would have found offensive based on his moral code.
- (3) "Obscene" means that an average person who applied contemporary community standards, would find the dominant theme of the material appealed to prurient interests.
- (4) "Political speech" means speech related to state, government, body politic, or public administration as it relates to governmental policymaking. Provides the term includes speech by the government or candidates for office and any discussion of social issues. Provides the term does not include speech that concerns the administration, law, or civil aspects of government.
- (5) "Religious speech" means a set of unproven answers, truth claims, faith-based assumptions, and naked assertions that attempt to explain the greater questions on how the world was created, what constitutes right and wrong actions by humans, and what happens after death.

- (6) "Social media website" means an internet website or application that enables a user to communicate with others by posting information, comments, messages, or images that were open to the public, has more than seventy-five million subscribers, and from its inception, was not specifically affiliated with any one religion or political party.
- (7) "User" means a resident of this state who is a natural person eighteen years of age or older.

Proposed law provides the owner or operator of the social media website who had a contract with a social media website user in this state, shall have a private right of action against the social media website, if it knowingly deleted or censored the user's rights of religious speech or political speech, or used an algorithm that disfavored or censored a user's religious or political speech.

Proposed law provides a social media website user may be awarded actual damages, plus up to \$75,000 in statutory damages, punitive damages if aggravating factors are shown, and injunctive and other forms of equitable relief.

Proposed law provides the prevailing party in a cause of action may be awarded court costs and reasonable attorney fees.

Proposed law provides a social media website that restores the deleted or removed speech within a reasonable amount of time may use that fact to mitigate any damages.

Proposed law provides a social media website cannot use the social media website's user's alleged hate speech as the basis for the justification or defense of the social media website's actions at trial.

Proposed law provides the attorney general may bring a civil cause of action on behalf of a social media website user who resides in this state and their religious speech or political speech was censored by a social media website.

Proposed law provides the social media user does not have a civil cause of action if the social media website deleted or censored a social media website user's speech, or used an algorithm that disfavored or censored speech that called for immediate acts of violence, was obscene or pornographic in nature, was the result of an operational error, was the result of a court order, was from an inauthentic source, or involved false impersonation, enticed criminal conduct, or involved the bullying of minors, or the social media website user censored another social media website user's speech.

Proposed law provides the state has a compelling interest in holding certain social media websites to a higher standard when they have substantially created a digital public square. Provides the state has an interest in helping its citizens enjoy their free exercise rights in certain forums commonly used for religious and political speech.

Proposed law provides the state has a compelling interest in holding certain social media websites to a higher standard that substantially created a digital public square.

Proposed law provides the state has an interest in protecting and assisting residents in their rights of religious and political speech.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 45:1701-1704)