**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 6 TO CHAPTER 5, TITLE 39 SO AS TO STOP CERTAIN SOCIAL MEDIA CENSORSHIP, TO PROVIDE PENALTIES, AND TO PROVIDE EXCEPTIONS.

Whereas, the General Assembly is generally opposed to online censorship unless the content is injurious to children or promotes human trafficking ‑ only then is the State House for limited censorship; and

Whereas, this State has a compelling interest in holding certain social media websites to higher standards for having substantially created a digital public square; and

Whereas, this State has an interest in helping its citizens enjoy their free exercise rights in certain semipublic forums commonly used for religious and political speech, regardless of which political party or religious organization they ascribe to; and

Whereas, the State has an interest in deterring the owners and operators of social media websites that have substantially created a digital public square from maliciously interfering in elections. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 5, Title 39 of the 1976 Code is amended by adding:

“Article 6

Stop Social Media Censorship Act

Section 39‑5‑610. This article may be cited as the ‘Stop Social Media Censorship Act’.

Section 39‑5‑620. The purpose of this article is to:

(1) level the playing field between consumers and the major social media websites;

(2) encourage the free flow of political and religious ideas and robust debate;

(3) hold major social media websites to a higher standard for having substantially created a digital public square;

(4) deter bad‑faith, unfair dealing, fraud, breach of contract, unjust enrichment, and the marginalization or oppression of competing worldviews;

(5) establish that:

(a) without truth, there is no freedom;

(b) freedom comes from the truth;

(c) the proliferation of truth is vital to the health of our Constitutional Republic; and

(d) social media censorship regarding religious and political ideology has the potential to suppress the truth by preventing different doctrines and ideologies from competing and vying for superiority;

(6) deter the owner or operator of a social media website from engaging in false advertising; and

(7) deter the owner or operator of a social media website from maliciously interfering with local, regional, and national elections.

Section 39‑5‑630. As used in this article:

(1) ‘Algorithm’ means a set of instructions designed to perform a specific task.

(2) ‘Harmful to minors’ has the same meaning as defined in Section 16‑15‑375.

(3) ‘Hate speech’ means a phrase concerning content that an individual finds offensive based on his personal moral code.

(4) ‘Obscene material’ has the same meaning as described in Section 16‑15‑305.

(5) ‘Political speech’ means speech relating to the state, government, body politic, or public administration as it relates to governmental policy‑making, and the term includes speech by the government or candidates for office and any discussion of social issues.

(6) ‘Religious speech’ means a set of unproven answers, truth claims, faith‑based assumptions, and naked assertions that attempt to explain such greater questions such as how the world was created, what constitutes right and wrong actions by humans, and what happens after death.

(7) ‘Shadowban’ means the act of blocking or partially blocking a user or their content from an online community so that it will not be readily apparent to the user that they have been banned. The term also means stealth banning, ghost banning, or comment ghosting.

(8) ‘Social media website’ means an Internet website or application that enables users to communicate with each other by posting information, comments, messages, or images and that meets all of the following requirements:

(a) is open to the public;

(b) has more than seventy‑five million subscribers;

(c) has not been specifically affiliated with any one religion or political party from its inception; and

(d) provides a means for the website’s users to report obscene materials and has in place procedures for evaluating those reports and removing obscene material.

Section 39‑5‑640. (A) The owner or operator of a social media website who contracts with a social media website user in this State is subject to a private right of action by a user if the social media website purposely:

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

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

(B) A social media website user may be awarded all of the following damages under this section:

(1) a minimum of seventy‑five thousand dollars in statutory damages for each purposeful deletion or censoring of the social media website user’s speech;

(2) actual damages;

(3) punitive damages, if aggravating factors are present; and

(4) other forms of equitable relief.

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

(D) A social media website that restores from deletion or removes the censoring of a social media website user’s speech in a reasonable amount of time may use that fact to mitigate any damages.

(E) A social media website may not use the social media website user’s alleged hate speech as a basis for justification or defense of the social media website’s actions at trial.

(F) The Attorney General also may bring a civil cause of action pursuant to this section on behalf of a social media website user who resides in this State and whose religious speech or political speech has been censored by a social media website.

(G) An owner or operator of a social media website that has engaged in practices described in subsection (A) has engaged in an unfair and deceptive trade practice in violation of Section 39‑5‑20 and is subjected to the penalties under that section.

(H) It is unlawful for a social media website to ban or restrict a user for any period of time or to disallow a user from participating in the social media website including, but not limited to, commenting, posting, or sharing. This subsection applies to personal and commercial pages.

(I) This section does not apply to:

(1) a social media website that deletes or censors a social media website user’s speech or that uses an algorithm to disfavor or censure speech that:

(a) calls for immediate acts of violence;

(b) calls for a user to harm himself;

(c) is obscene material or material harmful to minors;

(d) is the result of operational error;

(e) is the result of a court order;

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

(g) entices criminal conduct; or

(h) involves minors bullying minors; or

(2) a social media website user’s censoring of another social media website user’s speech.

(J) Only users who are eighteen years of age or older have standing to seek enforcement of this section.

(K) The venue for any civil action brought pursuant to this section is this State.”

SECTION 2. This act takes effect upon approval by the Governor.

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