

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 323

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO SOCIAL MEDIA; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF
A NEW CHAPTER 20, TITLE 48, IDAHO CODE, TO PROVIDE FOR THE STOP SOCIAL
MEDIA CENSORSHIP ACT, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, AND TO
PROVIDE FOR CIVIL ACTIONS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended
by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
ter 20, Title 48, Idaho Code, and to read as follows:

CHAPTER 20

STOP SOCIAL MEDIA CENSORSHIP ACT

48-2001. SHORT TITLE. This act relates to indecent, deceptive trade
practices and shall be known and may be cited as the "Stop Social Media Cen-
sorship Act."

48-2002. DEFINITIONS. As used in this chapter:

(1) "Algorithm" means a set of instructions designed to perform a spe-
cific task.

(2) "Harmful to minors" has the same meaning as in section 33-2741,
Idaho Code.

(3) "Hate speech" means a phrase concerning content that an individual
finds offensive based on the individual's personal moral code.

(4) "Obscene" has the same meaning as in section 18-4101, Idaho Code.

(5) "Operational error" means whenever an unplanned or undesired re-
sult stems from the acts or decisions of supervisory management.

(6) "Political speech" means speech relating to the state, government,
body politic, or public administration as it relates to governmental policy
and includes speech by the government or candidates for office and any dis-
cussion of social issues.

(7) "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.

(8) "Shadowban" means the act of blocking or partially blocking a user
or a user's content from an online community such that it will not be read-
ily apparent to the user that the user has been banned. The term also means
stealth banning, ghost banning, or comment ghosting.

(9) "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 require-
ments:

- 1 (a) Is open to the public;
 2 (b) Has more than seventy-five million (75,000,000) subscribers;
 3 (c) From its inception, has not been specifically affiliated with any
 4 one (1) religion or political party; and
 5 (d) Provides a means for the website's users to report obscene materi-
 6 als and has in place procedures for evaluating those reports and remov-
 7 ing obscene material.
 8 (10) "Social media website user" means an individual or organization
 9 that has posted on the social media website regardless of whether the indi-
 10 vidual or organization is a paid subscriber.

11 48-2003. CIVIL ACTION TO STOP SOCIAL MEDIA CENSORSHIP -- DECEPTIVE
 12 TRADE PRACTICE -- EXCEPTIONS. (1) The owner or operator of a social media
 13 website who contracts with a social media website user in this state is sub-
 14 ject to a private right of action by such user if the social media website
 15 purposely:

- 16 (a) Deletes or censors the user's religious speech or political speech;
 17 or
 18 (b) Uses an algorithm to disfavor, shadowban, or censure the user's re-
 19 ligious speech or political speech.

20 (2) A prevailing social media website user shall be awarded any or all
 21 of the following damages:

- 22 (a) A minimum of seventy-five thousand dollars (\$75,000) in statutory
 23 damages per purposeful deletion or censoring of the social media web-
 24 site user's speech;
 25 (b) Actual damages;
 26 (c) If aggravating factors are present, punitive damages; and
 27 (d) Other forms of equitable relief.

28 (3) The prevailing party in a cause of action under this section may be
 29 awarded costs and reasonable attorney's fees.

30 (4) A social media website that restores from deletion or removes the
 31 censoring of a social media website user's speech within a reasonable amount
 32 of time may use that fact to mitigate any damages.

33 (5) A social media website may not use the social media website user's
 34 alleged hate speech as a basis for justification or defense of the social me-
 35 dia website's actions at trial.

36 (6) The provisions of this section shall not apply to any of the follow-
 37 ing:

38 (a) A social media website that deletes or censors a social media web-
 39 site user's speech or that uses an algorithm to disfavor or censure
 40 speech that:

- 41 (i) Calls for immediate acts of violence;
 42 (ii) Calls for a user to harm himself;
 43 (iii) Is obscene material or material harmful to minors;
 44 (iv) Is the result of a court order;
 45 (v) Involves false impersonation;
 46 (vi) Entices criminal conduct; or
 47 (vii) Involves minors bullying minors; or

48 (b) A social media website user's censoring of another social media
 49 website user's speech.

1 (7) Only users who are eighteen (18) years of age or older have standing
2 to seek enforcement of this section.

3 (8) Any civil action brought under this section may be filed in the dis-
4 trict court of the county in which the person resides or has his principal
5 place of business.

6 SECTION 2. An emergency existing therefor, which emergency is hereby
7 declared to exist, this act shall be in full force and effect on and after its
8 passage and approval.