**A** **BILL**

TO ENACT THE “SOCIAL MEDIA BILL OF RIGHTS”; TO AMEND ARTICLE 1, CHAPTER 5, TITLE 39 OF THE 1976 CODE, RELATING TO UNFAIR TRADE PRACTICES, BY ADDING SECTION 39-5-30, TO ESTABLISH EQUAL ACCESS WITHOUT DISCRIMINATION ON ACCOUNT OF RACE, RELIGION, OR POLITICAL AFFILIATION, TO REQUIRE SOCIAL MEDIA PLATFORMS TO PROVIDE A SOCIAL MEDIA PLATFORM USER WITH NOTICE WITHIN A SPECIFIED TIMEFRAME WHEN HIS ACCOUNT IS SUSPENDED OR DISABLED, TO PROVIDE FOR EQUAL OPPORTUNITY ON SOCIAL MEDIA PLATFORMS FOR QUALIFIED POLITICAL CANDIDATES, TO PROVIDE THAT THE OWNER OR OPERATOR OF A SOCIAL MEDIA PLATFORM IS SUBJECT TO A PRIVATE RIGHT OF ACTION BY A SOCIAL MEDIA PLATFORM USER IN THIS STATE UNDER CERTAIN CONDITIONS, TO PROVIDE DAMAGES, TO AUTHORIZE THE AWARD OF REASONABLE ATTORNEY FEES AND COSTS, TO PROHIBIT A SOCIAL MEDIA PLATFORM FROM USING HATE SPEECH AS A DEFENSE, TO AUTHORIZE THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF A SOCIAL MEDIA PLATFORM USER, TO PROVIDE EXCEPTIONS FOR THE DELETION OR CENSURE OF CERTAIN TYPES OF SPEECH, AND TO DEFINE NECESSARY TERMS.

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

Whereas, this State has an interest in helping its residents enjoy their free exercise of rights in certain semi‑public forums commonly used for religious and political speech. Now, therefore,

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

SECTION 1. This act must be known and may be cited as the “Social Media Bill of Rights”.

SECTION 2. Article 1, Chapter 5, Title 39 of the 1976 Code is amended by adding:

“Section 39-5-30. (A) For the purposes of this section:

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

(2) ‘Censor’ means to block, ban, remove, de-platform, de-monetize, de-boost, restrict, deny equal access or visibility to, or otherwise discriminate.

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

(4) ‘Obscene’ means material that, if taken as a whole, an average person, applying contemporary community standards, would find to have a dominant theme that appeals to prurient interests.

(5) ‘Political affiliation’ means any expression of or association with the ideals, issues, or ideologies of a political group, party, or organization that constitutes political protected speech distinctive from other forms of speech, including, but not limited to, commercial speech, true threats, criminal conduct, animal cruelty, violent entertainment, and child pornography.

(6) ‘Political speech’ means speech relating to the State, government, body politic, or public administration as it relates to governmental policymaking. The term includes speech by the government or a candidate for office and any discussion of social issues.

(7) ‘Religious affiliation’ means any expression of or association with the ideals, worldview, or beliefs held by any religious group or organization.

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

(9) ‘Social media platform’ or ‘platform’ means an Internet platform or application that provides a public or semi‑public communications channel that enables platform users to broadcast information or network with other platform users creating a forum for sharing information, comments, messages, audio, video, or images and that:

(a) is open to the public;

(b) has more than twenty-five million active platform users within any thirty-day period; and

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

(B) All persons shall be entitled to full and equal enjoyment of the goods, services, privileges, and advantages of any platform without discrimination by a platform on the grounds of race, religion, or political affiliation.

(C) If a platform user’s platform account is disabled or suspended by the platform, then the owner or operator of the platform must provide electronic notice to the platform user within thirty days after taking such action. The notice must be in writing and must explain why the platform user’s account was suspended or disabled.

(D)(1) If any platform permits a person who is a legally qualified candidate for public office in the State of South Carolina to use its platform, then the platform shall afford equal opportunities to all other such candidates for that office in the use of the platform, provided that the platform shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any platform to allow the use of its platform by candidates.

(2) Any charges for the use of a platform by a person who is a legally qualified candidate for any public office in South Carolina in connection with the candidate’s campaign for nomination for election, or election, to public office shall not exceed charges made for the comparable use of the platform by other platform users.

(3) The owner or operator of a platform who contracts with a platform user in this State is subject to a private right of action by the platform user if the platform purposely:

(a) censors or otherwise discriminates against a platform user based upon his race;

(b) censors a platform user’s religious speech or political speech;

(c) uses an algorithm to disfavor or censure the platform user’s religious speech or political speech; or

(d) fails to provide equal opportunity, offer comparable charges for services, or otherwise shows any form of favoritism to one candidate for public office over another candidate for public office in South Carolina.

(4) A platform user may be awarded all of the following damages under this section:

(a) a minimum of seventy-five thousand dollars in statutory damages per purposeful deletion or censoring of the platform user’s speech;

(b) actual damages;

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

(d) other forms of equitable relief.

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

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

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

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

(G) This section does not apply to any of the following:

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

(a) calls for immediate acts of violence;

(b) is obscene or pornographic in nature;

(c) is the result of operational error;

(d) is the result of a court order;

(e) comes from an inauthentic source or involves false personation;

(f) entices criminal conduct; or

(g) involves the bullying of minors; or

(2) a platform user’s censoring of another platform user’s speech.

(H) This section shall not be construed to:

(1) subject a platform to any action or require a remedy from a platform for which the platform is protected under the laws of this State or of the United States;

(2) prohibit a platform from censoring any expression that it is specifically authorized to censor under the laws of this State or of the United States;

(3) prohibit a platform from censoring an unlawful expression; or

(4) prohibit a platform from providing a platform user with tools to filter content received, including, but not limited to, blocking, reporting, and deleting other platform user’s content from the platform user’s personal viewing.

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

SECTION 3. This act shall take effect July 1, 2021.

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