**South Carolina General Assembly**

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**S. 268**

**STATUS INFORMATION**

General Bill

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Currently residing in the Senate Committee on **Labor, Commerce and Industry**

Summary: Stop Social Media Censorship Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/7/2022 Senate Prefiled

 12/7/2022 Senate Referred to Committee on **Labor, Commerce and Industry**

 1/10/2023 Senate Introduced and read first time (Senate Journal‑page 139)

 1/10/2023 Senate Referred to Committee on **Labor, Commerce and Industry** (Senate Journal‑page 139)

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**VERSIONS OF THIS BILL**

[12/07/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/268_20221207.docx)

A bill

to amend the South Carolina Code of Laws by adding Section 39‑5‑630 so as to provide for social media accountability and define terms; by adding Section 39‑5‑630 so as to prohibit social media websites from censoring users’ religious or political speech and to provide legal remedies for social media website users.

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

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

 Article 6

 Social Media Accountability

 Section 39‑5‑620. As used in this article:

 (1) “Algorithm” means a sequential computational technique, set of instructions, or set of rules designed to rank, sort, filter, organize, or categorize content.

 (2) “Harmful to minors” has the same meaning as that provided in Section 16‑15‑375.

 (3) “Hate speech” means abusive or threatening speech or writing that expresses prejudice against a particular group, especially on the basis of race, religion, sexual orientation, or similar grounds.

 (4) “Obscene material” has the same meaning as that provided in Section 16‑15‑305.

 (5)(a) “Political speech” means speech or writing relating to the state, government, body politic, or public administration concerning governmental policy‑making.

 (b) “Political speech” includes speech or writing by the government or candidates for office and any discussion of social issues.

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

 (7) “Shadowban” means blocking or partially blocking a user or his content from an online community where such blocking is not readily apparent to the user. The term also means stealth banning, ghost banning, or comment ghosting.

 (8) “Social media website” means:

 (a) an internet website or application that enables users to communicate with each other by posting information, comments, messages, or images in a forum that:

 (i) is open to the public;

 (ii) has more than seventy‑five million subscribers with personal user profiles provided by the website;

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

 (iv) 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; and

 (v) allows for a subscriber to sign up for a personal user profile or account where he may express beliefs and preferences.

 (b) “Social media website” does not include a website that merely permits users to comment on content published by the owner of the website.

 (9) “User profile” means a collection of settings and information associated with a user or subscriber who signs up for an account made available by a social media website. Such accounts often associate characteristics with a user or subscriber that may help ascertain the interactive behavior of the user or his personal preferences and beliefs.

 Section 39‑5‑630. (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 or political speech; and

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

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

 (1) up to seventy‑five thousand dollars in statutory damages per 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 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 or political speech has been censored by a social media website.

 (G) An owner or operator of a social media website that purposely deletes or censors a user’s religious or political speech and uses an algorithm to disfavor, shadowban, or censure the user’s religious or political speech has engaged in an unfair and deceptive trade practice in violation of Section 39‑5‑20 and is subject to the penalties under that section.

 (H) It is unlawful for a social media website to ban or restrict a user for any period or to disallow a user from participating in the social media website including, 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 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, lewd, lascivious, or harmful to minors;

 (d) is the result of operational error;

 (e) is the result of a court order;

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

 (g) incites or encourages criminal conduct;

 (h) involves bullying minors;

 (i) constitutes copyright or trademark infringement;

 (j) is excessively violent; or

 (k) constitutes harassing spam that is commercial, not religious or political, in nature; 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. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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