

1 AN ACT creating a civil cause of action against social media Web sites.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Interactive computer service" means any information service, system, or
7 access software provider that provides or enables computer access by
8 multiple users to a computer server, including specifically a service or
9 system that provides access to the Internet and such systems operated or
10 services offered by libraries or educational institutions; and

11 (b) "Social media site" means a Web site through which users are able to share
12 and generate content and find and connect with other users of common
13 interests.

14 (2) Any interactive computer service provider that restricts, censors, or suppresses
15 information that does not pertain to obscene, lewd, lascivious, filthy, excessively
16 violent, harassing, or similarly objectionable subject matter, shall be liable in a
17 civil action for damages to any person who at the time of such restriction,
18 editorship, or suppression is a resident of or domiciled in Kentucky, and whose
19 speech is restricted, censored, or suppressed. This section shall only apply if the
20 interactive computer service provider:

21 (a) Is immune from civil liability under federal law;

22 (b) Is not considered a publisher;

23 (c) Has over one million (1,000,000) users; and

24 (d) Is a provider of a social media site.

25 (3) A person whose writing, speech, or publication is restricted, censored, or
26 suppressed under this section shall be entitled to civil damages, including
27 compensatory, consequential, and incidental damages, and the court or jury may

- 1 also award punitive damages in an amount of no more than three (3) times the
2 amount of compensatory damages.
- 3 (4) An action for civil damages under this section may be brought in the county
4 where the person being restricted, censored, or suppressed resides.
- 5 (5) The court shall award a reasonable attorney's fee to the prevailing plaintiff.
- 6 (6) "Immune from civil liability" under subsection (2) of this section means an
7 action by an interactive computer service provider:
- 8 (a) Taken voluntarily in good faith to restrict access to or availability of
9 material that the provider or user considers to be obscene, lewd, lascivious,
10 filthy, excessively violent, harassing, or otherwise similarly objectionable,
11 regardless of whether the material is constitutionally protected; or
- 12 (b) Taken to enable or make available to information content providers or
13 others the technical means to restrict access to material described in
14 paragraph (a) of this subsection.
- 15 (7) An interactive computer service provider may state affirmatively in the provider's
16 terms of service that the provider is a publisher. If the statement is agreed to by
17 the person that is restricted, censored, or suppressed, subsection (2) of this section
18 shall not apply.
- 19 (8) Notwithstanding the provisions of subsection (2) of this section, an interactive
20 computer service provider may limit content to subject matter expressly stated in
21 the provider's terms of service.