

1 AN ACT relating to social media Web sites and declaring an emergency.

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 *The General Assembly hereby finds and declares that:*

6 *(1) Online censorship must be opposed, and limited censorship may be applied only*
7 *if online content is injurious to minors, or entices or promotes human*
8 *trafficking;*

9 *(2) There is a compelling interest in holding certain social media Web sites to higher*
10 *standards for having substantially created a digital public square;*

11 *(3) Citizens of the Commonwealth deserve to enjoy their free exercise rights of*
12 *speech and religion in certain semi-public forums commonly used for religious*
13 *and political speech, regardless of which political party or religious organization*
14 *they ascribe to; and*

15 *(4) Owners and operators of social media Web sites that have substantially created a*
16 *digital public square must be deterred from maliciously interfering in elections.*

17 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
18 READ AS FOLLOWS:

19 *(1) As used in this section:*

20 *(a) "Algorithm" means a set of instructions designed to perform a specific*
21 *task;*

22 *(b) "Hate speech" means a phrase concerning content that an individual finds*
23 *offensive based on his or her personal moral code;*

24 *(c) "Obscene" has the same meaning as in KRS 531.010;*

25 *(d) "Political speech" means speech relating to the state, government, body*
26 *politic, or public administration as it relates to governmental policy-making,*
27 *and the term includes speech by the government or candidates for office*

1 and any discussion of social issues;

2 (e) "Religious speech" means speech relating to a set of unproven answers,
3 truth claims, faith-based assumptions, and naked assertions that attempt to
4 explain greater questions such as how the world was created, what
5 constitutes right and wrong actions by humans, and what happens after
6 death;

7 (f) "Shadowban" means the act of blocking or partially blocking a user or a
8 user's content from an online community in a manner that it will not be
9 readily apparent to the user that he or she has been blocked or banned; and

10 (g) "Social media Web site" means an Internet Web site or application that
11 enables users to communicate with each other by posting information,
12 comments, messages, or images, and meets the following requirements:

13 1. Is open to the public;

14 2. Has more than seventy-five million (75,000,000) subscribers;

15 3. From its inception, has not been specifically affiliated with any one (1)
16 religion or political party; and

17 4. Provides a means for the Web site's users to report obscene material
18 and has in place procedures for evaluating those reports and removing
19 obscene material.

20 (2) The owner or operator of a social media Web site who contracts with a social
21 media Web site user in this state is subject to a private cause of action by the user
22 if the social media Web site purposely:

23 (a) Deletes or censors the user's religious speech or political speech; or

24 (b) Uses an algorithm to disfavor, shadowban, or censor the user's religious
25 speech or political speech.

26 (3) If the owner or operator of a social media Web site deletes, censors, or uses an
27 algorithm as outlined in subsection (2) of this section, a social media Web site

1 user may be awarded the following damages:

2 (a) A minimum of seventy-five thousand dollars (\$75,000) in statutory damages
3 per purposeful deletion or censoring of the social media Web site user's
4 speech;

5 (b) Actual damages;

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

7 (d) Other forms of equitable relief.

8 (4) An owner or operator of a social media Web site that engages in the practices
9 described in this section shall also be in violation of the Consumer Protection Act
10 under KRS 367.110 to 367.300, and shall be subject to any additional damages or
11 penalties provided under those statutes.

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

14 (6) A social media Web site that restores a social media Web site user's speech in a
15 reasonable amount of time may use that fact to mitigate any damages.

16 (7) A social media Web site shall not use the social media Web site user's alleged
17 hate speech as a basis for justification or defense of the social media Web site's
18 actions at trial.

19 (8) The Attorney General may also bring a civil cause of action under this section on
20 behalf of a social media Web site user who resides in this state and whose
21 religious speech or political speech has been deleted or censored by a social
22 media Web site as outlined in subsection (2) of this section.

23 (9) The venue for any civil action brought under this section shall be the
24 Commonwealth of Kentucky.

25 (10) This section shall not apply to any of the following:

26 (a) A social media Web site that deletes or censors a social media Web site
27 user's speech or that uses an algorithm to disfavor, shadowban, or censor

- 1 speech that:
- 2 1. Calls for immediate acts of violence;
- 3 2. Contains obscene material harmful to minors;
- 4 3. Is the result of operational error;
- 5 4. Is the result of a court order;
- 6 5. Comes from an inauthentic source or involves false impersonation;
- 7 6. Incites criminal conduct; or
- 8 7. Involves minors bullying minors; or
- 9 (b) A social media Web site user's censoring of another social media Web site
- 10 user's speech.
- 11 (11) Only users who are eighteen (18) years of age or older shall have standing to seek
- 12 enforcement of this section.

13 ➔Section 3. This Act may be cited as the Stop Social Media Censorship Act.

14 ➔Section 4. Whereas protecting the constitutional rights of the citizens of

15 Kentucky is of utmost importance, an emergency is declared to exist and this Act takes

16 effect upon its passage and approval by the Governor or upon its otherwise becoming a

17 law.