

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to permit civil actions against social media sites for censoring speech; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Definitions.

As used in this chapter:

1. "Algorithm" means a set of instructions designed to perform a specific task.
2. "Harmful to minors" has the same meaning as in section 12.1-27.1-02.
3. "Hate speech" means a phrase concerning content an individual finds offensive based on his or her personal moral code.
4. "Obscene material" has the same meaning as in section 12.1-27.1-01.
5. "Political speech" means speech relating to the state, government, body politic, or public administration as it relates to governmental policy-making. The term includes speech by the government or candidates for office and any discussion of social issues.
6. "Religious speech" means a set of unproven answers, truth claims, faith-based assumptions, and naked assertions that attempt to explain greater questions such as how the world was created, what constitutes right and wrong actions by humans, and what happens after death.
7. "Shadowban" means the act of blocking or partially blocking a user or the user's content from an online community so it will not be readily apparent to the user that the user or the user's content have been banned. The term includes stealth banning, ghost banning, or comment ghosting.
8. "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 the following requirements:
 - a. Is open to the public;
 - b. Has more than seventy-five million subscribers;
 - c. From the website's inception has not been specifically affiliated with any one religion or political party; and

- d. 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.

Civil action to prohibit social media censorship - Deceptive trade practice - Exceptions.

1. A social media website owner or operator that contracts with a social media website user in this state is subject to a private right of action by the user if the social media website purposely:
 - a. Deletes or censors the user's religious speech or political speech; and
 - b. Uses an algorithm to disfavor, shadowban, or censure the user's religious speech or political speech.
2. A social media website user may be awarded all the following damages under this section:
 - a. A minimum of seventy-five thousand dollars in statutory damages per purposeful deletion or censoring of the social media website user's speech;
 - b. Actual damages;
 - c. If aggravating factors are present, punitive damages; and
 - d. Other forms of equitable relief.
3. The prevailing party in a cause of action under this section may be awarded costs and reasonable attorney's fees.
4. 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.
5. 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.
6. The attorney general also may bring a civil cause of action under this section on behalf of a social media website user who resides in this state and whose religious speech or political speech has been censored by a social media website.
7. This section does not apply to:
 - a. A social media website that deletes or censors a social media website user's speech or that uses an algorithm to disfavor or censure speech that:
 - (1) Calls for immediate acts of violence;
 - (2) Calls for a user to harm themselves;
 - (3) Is obscene material or material harmful to minors;
 - (4) Is the result of operational error;

- (5) Is the result of a court order;
- (6) Comes from an inauthentic source or involves false impersonation;
- (7) Entices criminal conduct; or
- (8) Involves minors bullying minors; or
- b. A social media website user's censoring of another social media website user's speech.
- 8. Only users eighteen years of age or older have standing to seek enforcement of this section.
- 9. The venue for a civil action brought under this section is in this state."

Renumber accordingly

