

HOUSE BILL No. 2322

By Representatives Garber, Donohoe, French, Helmer, Highland, Huebert, Rahjes, Rhiley, E. Smith, Thomas, Toplikar and Waggoner

2-13

1 AN ACT concerning discrimination; relating to social media websites;
2 creating a cause of action against social media websites that censor or
3 suppress certain user speech.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) As used in this section:

7 (1) "Algorithm" means a set of instructions designed to perform a
8 specific task.

9 (2) "Hate speech" means a phrase concerning content that an
10 individual arbitrarily finds offensive based on such individual's personal
11 moral code.

12 (3) "Obscene" means that to the average person, applying
13 contemporary community standards, the dominant theme of the material
14 taken as a whole appeals to prurient interest.

15 (4) (A) "Political speech" means speech relating to the state, the
16 government, the body politic, public administration or government policy-
17 making, and includes, but is not limited to, speech by the government or
18 candidates for office and any discussion of social issues.

19 (B) The term "political speech" does not include speech concerning
20 the administration of or the law relating to the civil aspects of government.

21 (5) "Religious speech" means a set of unproven answers, truth claims,
22 faith-based assumptions and naked assertions that attempt to explain the
23 greater questions like how things were created, what humans should or
24 should not be doing and what happens after death.

25 (6) "Social media website" means a website or computer application
26 that enables users to communicate with each other by posting information,
27 comments, messages or images, and:

28 (A) Is open to the public;

29 (B) has more than 75,000,000 users; and

30 (C) has not been specifically affiliated with any one religion or
31 political party from its inception.

32 (b) A user of a social media website, such user's parent or legal
33 guardian if the user is under 18 years of age, or the attorney general on
34 behalf of such user, may bring a cause of action against the owner or
35 operator of such social media website if such social media website has

1 users who are physically located in this state and purposely:

2 (1) Deletes or censors such user's religious or political speech; or

3 (2) uses an algorithm to suppress religious or political speech.

4 (c) (1) In any action brought pursuant to this section, the plaintiff may
5 be awarded statutory damages in the amount of \$75,000 for each instance
6 of censorship or suppression. A plaintiff may also be awarded actual
7 damages, attorney fees, court costs and such other equitable relief as the
8 court deems appropriate.

9 (2) Any action by the defendant to restore from deletion or remove
10 the censoring of a user's speech in a reasonable amount of time may be
11 used by such defendant to mitigate any damages.

12 (d) The owner or operator of a social media website shall not be
13 liable under the provisions of this section if the social media website
14 censors, deletes or uses an algorithm to suppress a user's speech that:

15 (1) Calls for immediate acts of violence;

16 (2) is obscene;

17 (3) was censored, deleted or suppressed as the result of operational
18 error;

19 (4) was censored, deleted or suppressed as the result of a court order;

20 (5) came from an inauthentic source or involved false impersonation;

21 (6) enticed criminal conduct;

22 (7) involved minors bullying minors; or

23 (8) was censored, deleted or suppressed by another user.

24 (e) In any action brought under this section, it shall not be an
25 affirmative defense that the user's speech was hate speech.

26 Sec. 2. This act shall take effect and be in force from and after its
27 publication in the statute book.