

HOUSE BILL NO. 2635

Offered January 10, 2019

A BILL to amend the Code of Virginia by adding in Title 56 a chapter numbered 29, consisting of sections numbered [56-614](#) through [56-619](#), relating to social media websites as public service corporations; social media censorship.

Patron-- Cole (By Request)

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 56 a chapter numbered 29, consisting of sections numbered [56-614](#) through [56-619](#), as follows:

*CHAPTER 29.
STOP MEDIA CENSORSHIP ACT.*

§ [56-614](#). *Definitions.*

As used in this chapter, unless the context requires a different meaning:

"Algorithm" means a set of instructions designed to perform a specific task.

"Hate speech" means speech based on arbitrary standards concerning content that an individual finds personally offensive based on their private moral code.

"Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks.

"Obscene" has the meaning ascribed to such term in § [18.2-372](#).

"Political speech" means speech relating to the state, government, the body politic, public administration, or policymaking. "Political speech" includes (i) speech by the government or candidates for political office and (ii) discussion of social issues.

"Religious speech" means speech concerning a set of unproven answers, truth claims, faith-based assumptions, and assertions that attempt to explain questions such as how things were created, what humans should or should not be doing, and what happens after death.

"Social media website" means a person that owns and operates a dedicated website or other application that enables users to communicate with each other by posting information, comments, messages, or images. The term also refers to the website operated by such person.

§ [56-615](#). *Regulation of certain social media websites as public service corporations.*

A. The Commission shall regulate as a public service corporation any social media website that is open to the public, that has more than 75 million subscribers, and that is not specifically affiliated with any one religion or political party from its inception.

B. No person may operate in the Commonwealth a social media website within the Commonwealth that, pursuant to subsection A, is required to be regulated by the Commission without first having obtained a certificate of authority from the Commission authorizing such operation.

C. Any person may apply to the Commission for a certificate of authority to operate a social media website within the Commonwealth that, pursuant to subsection A, is required to be regulated by the Commission. If the Commission determines in writing, after notice and opportunity for a hearing, that the application is complete, that approval of the application is in the public interest, and that the applicant has complied with the provisions of this chapter, it shall approve the application, with or without modification. If the application is approved, the operator shall operate the social media website in accordance with the provisions of this chapter.

D. The Commission may charge a reasonable application fee to cover the costs of processing, reviewing, and approving or denying the application for a certificate of authority. The application for a certificate of authority shall contain the following material and information:

1. The social media website's policies regarding the deletion or censoring of the religious or political speech of users;

2. The social media website's policies regarding the use of algorithms that identify users or content for deletion or censoring; and

3. A certification by the operator that the social media website will be operated to meet the requirements of this chapter; and

4. A bond in form and amount satisfactory to the Commission sufficient to ensure payment of any judgments that in the Commission's discretion may reasonably be expected pursuant to subsection A of § [56-617](#).

E. A social media website obtaining a certificate of authority from the Commission authorizing its operation as a public service corporation shall not have any of the powers set forth in § [56-49](#).

F. The operator shall submit an annual report to Commission concerning each action instituted against the social media website pursuant to subsection A of § [56-617](#) and the status and resolution of each such action.

G. The Commission may charge a reasonable annual fee to cover the costs of supervising and regulating the operator in the performance of its duties under this chapter and pursuant to this section.

§ [56-616](#). Hate speech.

A. Hate speech is a form of protected speech.

B. A social media website that is regulated by the Commission as a public service corporation shall not use an assertion, opinion, or belief that religious or political speech constitutes hate speech as a basis for deleting or censoring a user's religious or political speech.

§ [56-617](#). Remedies.

A. If any social media website that is regulated by the Commission as a public service corporation intentionally deletes or censors the religious or political speech of a user who resides in the Commonwealth, such user may bring a private action in any court of competent jurisdiction against such owner and recover compensatory and punitive damages. In such action the user may also recover attorney fees and costs and may elect, in lieu of actual damages, to recover \$75,000 in statutory damages. Jurisdiction to hear and determine cases and controversies arising under provisions of this chapter shall be in the circuit court of the county or city wherein the user resides or has its principal place of business in the Commonwealth. The court may grant equitable relief as is necessary to remedy the effects of conduct that it finds to exist and which is prohibited under this chapter, including, but not limited to, declaratory judgment and injunctive relief. The Attorney General may bring an action under this section against such a website on behalf of any user who resides in the Commonwealth.

B. In the event of material and continuing default in the performance of the failure of the social media website to comply with the terms of its certificate or the requirements of this chapter, the Commission, after notice and a hearing in which the social media website has notice and opportunity to participate, may revoke the certificate of

authority for the social media website and make or cause to be made the appropriate claim or claims under any bonds or take such other action as it may deem appropriate under the circumstances.

§ [56-618](#). Exceptions.

A. A social media website that is regulated by the Commission as a public service corporation shall not be liable under § [56-617](#) to a user for intentionally deleting or censoring the user's religious or political speech if the speech calls for immediate acts of violence or is obscene or pornographic.

B. A social media website shall not be liable to any user for any deletion or censorship of the user's speech that is done by any other user for any reason.

C. If a social media website is paid by a user to promote a particular form of religious or political speech, it may do so with impunity.

§ [56-619](#). Liability for use of algorithms.

A. A social media website that is regulated by the Commission as a public service corporation shall not be immune from liability in an action by a user pursuant to § [56-617](#) on the basis that the social media website's deletions or suppressions of political speech or religious speech results from the social media website's intentional use or application of an algorithm.

B. Notwithstanding the provisions of subsection A, a social media website that is regulated by the Commission as a public service corporation may use algorithms to delete or censor political or religious speech that calls for immediate acts of violence, is obscene, or is pornographic and shall not be liable under § [56-617](#) to a user for the use of an algorithm in deleting or censoring a user's religious or political speech.