

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 662

BY SENATOR MAYNARD

[Introduced February 18, 2019; Referred
to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated [§55-7L-1](#), [§55-7L-2](#), and [§55-7L-3](#), all relating to permitting civil actions by a social media website user for censorship or suppression of social media user's speech; providing definitions; stating defenses to civil action; and authorizing the Attorney General to bring action on behalf of a social media user.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7L. PROHIBITION TO CERTAIN SOCIAL MEDIA CENSORSHIP ACT.

§55-7L-1. Definitions.

(a) As used in this section:

(1) "Algorithm" means a set of instructions designed to perform a specific task;

(2) "Hate speech" a phrase concerning content that a person arbitrarily finds offensive based on his or her personal moral code;

(3) "Obscene" means content that to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest, and lacks serious literary, artistic, political or scientific value;

(4) "Political speech" means speech relating to the state, government, body politic, public administration, or government policymaking, including speech by the government or candidates for office, and any speech relating to social issues. The term does not include speech concerning the administration of or the law relating to the civil aspects of government;

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

(i) Is open to the public;

(ii) Has more than 75 million users; and

(iii) Has not been specifically affiliated with any one religion or political party from its inception.

§55-7L-2. Action for censoring or suppression of social media user's speech.

(a) A social media website user may bring a civil action against the owner or operator of a social media website with users in this state if the social media website purposely:

(1) Censors a social media website user's religious or political speech; or

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

(b) It is not a defense to a civil action under this article that the social media website user's speech was hate speech.

(c) The civil action may be for actual damages and other relief, including punitive damages and injunctive relief: *Provided*, That punitive damages may not exceed \$75,000. The prevailing party may seek attorney fees and costs.

§55-7L-3. Defenses to civil action.

(a) A social media website may not be found liable under this article if the censored speech calls for immediate acts of violence, is obscene or pornographic in nature, was censored as a result of operational error, was censored as a result of a court order, came from an inauthentic source or involved false impersonation, enticed criminal conduct, involved minors.

(b) Only social media website users 18 years old or older have standing to enforce this section.

(c) The Attorney General may bring a civil action under this article on behalf of a social media website user who resides in this state whose religious or political speech has been censored by a social media website.

NOTE: The purpose of this bill is to permit civil actions by a social media website user for censoring or suppression of social media user's speech.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.