

1 SB10
2 214952-1
3 By Senators Orr, Sessions, Whatley, Melson, Elliott, Jones,
4 Barfoot, Gudger, Allen, Butler, Shelnut, Livingston and
5 Roberts
6 RFD: Judiciary
7 First Read: 11-JAN-22
8 PFD: 11/01/2021

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8 SYNOPSIS: Existing law does not address the censorship
9 and suppression of speech on websites or via use of
10 Internet applications.

11 This bill would prohibit a major interactive
12 computer service provider from taking certain
13 restrictive or suppressive action against a user of
14 its service based on either a viewpoint expressed
15 or shared by the user or true statements of fact
16 expressed or shared by the user.

17 This bill would also provide for civil
18 remedies for an affected user against a major
19 interactive computer service provider.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 Relating to freedom of speech; to prohibit certain
26 service providers from taking certain restrictive or
27 suppressive actions against their users based on type and

1 content of speech expressed on their platforms; and to provide
2 for civil remedies.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as the Alabama Freedom of Online Speech Act.

6 Section 2. The Legislature finds and declares the
7 following:

8 (1) Free speech is the bedrock of our Republic, a
9 sacred right protected by the Free Speech Clause of the First
10 Amendment to the United States Constitution and the Free
11 Speech Clause of Article 1, Section 4 of the Constitution of
12 Alabama of 1901.

13 (2) As the United States Congress has recognized:
14 "The Internet and other interactive computer services offer a
15 forum for a true diversity of political discourse, unique
16 opportunities for cultural development, and myriad avenues for
17 intellectual activity."

18 (3) As the United States Supreme Court has
19 recognized: "Social media allows users to gain access to
20 information and communicate with one another on any subject
21 that might come to mind," being "the modern public square"
22 where Americans exercise their free-speech freedoms, with the
23 ability to speak and listen on social-media platforms
24 implicating First Amendment rights.

25 (4) Today, however, Big Tech companies tyrannize
26 over "the modern public square," regularly wielding their
27 great power to capriciously censor speech and deplatform

1 users, anointing themselves as the arbiters of truth and
2 adjudgers of "good" speech and "bad" speech.

3 (5) Alarminglly, such conduct by Big Tech companies –
4 anathema to the American free-speech tradition – is
5 increasingly endorsed and even coerced by federal officials,
6 entrenched media organizations, and other large corporations
7 in the United States.

8 (6) The State of Alabama has a vital public interest
9 in, and the right to provide, greater protections for online
10 speech within her borders.

11 Section 3. For the purposes of this act, the
12 following terms have the following meanings:

13 (1) ACCESS SOFTWARE PROVIDER. A provider of
14 software, including client or server software, or enabling
15 tools that do any one or more of the following:

- 16 a. Filter, screen, allow, or disallow content.
- 17 b. Pick, choose, analyze, or digest content.
- 18 c. Transmit, receive, display, forward, cache,
19 search, subset, organize, reorganize, or translate content.

20 (2) INTERACTIVE COMPUTER SERVICE. Any information
21 service, system, or access software provider that provides or
22 enables computer access by multiple users to a computer
23 server, including specifically a service or system that
24 provides access to the Internet and such systems operated or
25 services offered by libraries or educational institutions.

1 (3) INTERNET. The international computer network of
2 both federal and non-federal interoperable packet switched
3 data networks.

4 (4) MAJOR INTERACTIVE COMPUTER SERVICE. An entity
5 that provides an interactive computer service in all of the
6 following ways:

7 a. Through a website, online application, or mobile
8 application, including a single interactive computer service
9 that is provided through more than a single website or
10 application.

11 b. Through which information provided by another
12 information content provider is distributed.

13 c. That, in any month during the most recently
14 completed 12-month period, either of the following are true:

15 1. More than 30,000,000 users in the United States
16 accessed the service, without regard to the means by which the
17 users accessed the service.

18 2. More than 300,000,000 users worldwide accessed
19 the service, without regard to the means by which the users
20 accessed the service.

21 d. That, during the most recently completed taxable
22 year, had more than one billion dollars (\$1,000,000,000) in
23 global revenue.

24 e. That does business in the State of Alabama.

25 Section 4. (a) It is unlawful for any major
26 interactive computer service to take any of the following
27 actions against a user based on either the viewpoint expressed

1 or shared by the user or true statements of fact expressed or
2 shared by the user:

3 (1) Block, restrict, suspend, terminate, remove, or
4 ban the account of a user.

5 (2) Reject content supplied by a user.

6 (3) Obscure, hide, or otherwise make less accessible
7 content supplied by a user.

8 (4) Alter or delete content supplied by a user.

9 (5) Otherwise discriminate in any way against a
10 user.

11 (b) Any major interactive computer service that
12 violates this section shall forfeit to the affected user one
13 hundred thousand dollars (\$100,000) for each offense, and an
14 additional one hundred thousand dollars (\$100,000) for each
15 day of the continuance of the offense.

16 Section 5. (a) Any person claiming to be damaged by
17 any major interactive computer service subject to the
18 provisions of this act may bring suit for the recovery of the
19 damages for which the major interactive computer service may
20 be liable under this act if either of the following are true:

21 (1) The person resides or is domiciled in this
22 state.

23 (2) The person does business in this state.

24 (b) Any person bringing suit for the recovery of the
25 damages for which a major interactive computer service may be
26 liable under this act may do so in any circuit court of this
27 state of competent jurisdiction.

1 Section 6. (a) This act does not apply to actions
2 taken by a major interactive computer service with regard to
3 expression that does either of the following:

4 (1) Violates a federal, state, or local law.

5 (2) Solicits, facilitates, or incites the commission
6 of an unlawful act.

7 (b) This act shall not prohibit or restrict a major
8 interactive computer service from providing users with the
9 option to filter specific expression, including, but not
10 limited to, explicit, indecent, violent, graphic, or profane
11 content.

12 (c) The provisions of Section 4 of this act shall
13 not include expressions transmitted by a user while the user
14 was outside this state.

15 (d) No provision of this act shall be construed as
16 allowing any suit to be brought or damages to be recovered
17 that would in any way infringe upon the freedom of the press
18 guaranteed by the Free Press Clause of the First Amendment to
19 the United States Constitution or the Free Press Clause of
20 Article 1, Section 4 of the Constitution of Alabama of 1901.

21 Section 7. The provisions of this act are severable.
22 If any part of this act is declared invalid or
23 unconstitutional, that declaration shall not affect the part
24 which remains.

25 Section 8. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

