
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 604 Session of
2021

INTRODUCED BY MASTRIANO, HUTCHINSON, PITTMAN, SCAVELLO AND
STEFANO, MAY 13, 2021

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
MAY 13, 2021

AN ACT

1 Providing for stopping social media censorship, for cause of
2 action and for penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Stop Social
7 Media Censorship Act.

8 Section 2. Findings.

9 The General Assembly finds and declares that this act is
10 intended to comply with the state law exemption under 47 U.S.C.
11 § 230(e)(3) (relating to protection for private blocking and
12 screening of offensive material) to prohibit social media
13 websites from banning certain users by creating a civil right of
14 action to deter the following practices:

15 (1) Deceptive trade practices.

16 (2) False advertising.

17 (3) Breach of contract.

- 1 (4) Bad faith dealing.
- 2 (5) Unfair dealing.
- 3 (6) Fraudulent inducement.
- 4 (7) Stifling political and religious speech in the
- 5 modern-day digital public square cultivated by social media
- 6 websites that have achieved critical mass through fraud.

7 Section 3. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Algorithm." A set of instructions designed to perform a
12 specific task.

13 "Deplatforming." The action or practice of preventing a user
14 who holds views regarded as unacceptable or offensive from
15 contributing to a forum or debate by blocking the user on a
16 social media website.

17 "Hate speech." A phrase that an individual finds offensive
18 based on the individual's personal moral code.

19 "Obscene." As defined in 18 Pa.C.S. § 5903(b) (relating to
20 obscene and other sexual materials and performances).

21 "Political speech." Speech relating to government or public
22 administration as it relates to governmental policy making. The
23 term includes speech by a government official or candidate for
24 office and any discussion of social issues.

25 "Religious speech." A set of unproven answers, truth claims,
26 faith-based assumptions and naked assertions that attempt to
27 explain greater questions such as how the world was created,
28 what constitutes right and wrong actions by humans and what
29 happens after death.

30 "Shadowban" or "shadowbanning." The act of blocking or

1 partially blocking a user or the user's content from an online
2 community so that the content will not be readily apparent to
3 the user that the user has been banned.

4 "Social media website." An Internet website or application
5 that enables users to communicate with each other by posting
6 information, comments, messages or images and that meets all of
7 the following requirements:

8 (1) Is open to the public.

9 (2) Has more than 75 million subscribers.

10 (3) Has not been specifically affiliated with any one
11 religion or political party.

12 (4) Provides a means for the website's users to report
13 obscene materials and has in place procedures for evaluating
14 those reports and removing obscene material.

15 Section 4. Civil action to stop social media censorship,
16 deceptive trade practice and exceptions.

17 (a) Private right of action.--The owner or operator of a
18 social media website who contracts with a social media website
19 user in this Commonwealth is subject to a private right of
20 action by the user if the social media website purposely:

21 (1) deletes or censors the user's religious speech or
22 political speech; and

23 (2) uses an algorithm to disfavor, shadowban or censure
24 the user's religious speech or political speech.

25 (b) Damages.--A social media website user may be awarded the
26 following damages for a violation of this section:

27 (1) Up to \$75,000 in statutory damages.

28 (2) Actual damages.

29 (3) If aggravating factors are present, punitive
30 damages.

1 (4) Other forms of equitable relief.

2 (c) Costs and fees awarded.--The prevailing party in a cause
3 of action under this section shall be awarded costs and
4 reasonable attorney fees.

5 (d) Mitigation of damages.--A social media website that
6 restores from deletion or removes the censoring of a social
7 media website user's speech in a reasonable amount of time may
8 use that fact to mitigate any damages.

9 (e) Hate speech not a justification.--A social media website
10 may not use the social media website user's alleged hate speech
11 as a basis for justification or defense of the social media
12 website's actions at trial.

13 (f) Attorney General.--The Attorney General may bring a
14 civil cause of action under this section on behalf of a social
15 media website user who resides in this Commonwealth and whose
16 religious speech or political speech has been censored by a
17 social media website.

18 (g) Secretary of State.--The Secretary of State shall:

19 (1) issue a fine in one of the following amounts if the
20 Secretary of State finds that the social media website has
21 engaged in deplatforming or shadowbanning a political
22 candidate seeking office in Pennsylvania in violation of this
23 act:

24 (i) if the candidate is seeking Statewide office,
25 \$100,000 per day of the violation;

26 (ii) for all other candidates, \$10,000 per day of
27 the violation; and

28 (2) disclose a social media company's algorithmic bias
29 for or against a political candidate seeking Statewide office
30 under paragraph (1) as a campaign contribution.

1 (h) Requirements for social media companies.--A social media
2 company who operates in or has users who reside in this
3 Commonwealth shall perform the following:

4 (1) Inform a user in writing why the user's account has
5 been banned or disabled within 30 days of the action and
6 offer the user recourse to restore the user's account.

7 (2) Publish and consistently apply standards for user
8 censoring, shadowbanning and deplatforming.

9 (i) Penalty.--An owner or operator of a social media website
10 that has engaged in practices described in subsection (a) has
11 committed an unlawful act or practice under the act of December
12 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices
13 and Consumer Protection Law, and shall be subject to applicable
14 penalties under the Unfair Trade Practices and Consumer
15 Protection Law.

16 (j) Application.--This section shall not apply to any of the
17 following:

18 (1) A social media website that deletes or censors a
19 social media website user's speech or that uses an algorithm
20 to disfavor or censure speech that:

21 (i) calls for immediate acts of violence;

22 (ii) calls for a user to self-harm;

23 (iii) is obscene, lewd, filthy or lascivious
24 material or material harmful to minors;

25 (iv) is the result of operational error;

26 (v) is the result of a court order;

27 (vi) comes from an inauthentic source or involves
28 false impersonation;

29 (vii) entices criminal conduct;

30 (viii) involves minors bullying other minors;

1 (ix) constitutes trademark or copyright
2 infringement;

3 (x) is excessively violent; or

4 (xi) constitutes harassing spam that is commercial,
5 not religious or political, in nature.

6 (2) A social media website user's censoring of another
7 social media website user's speech.

8 (k) Standing.--Only users who are 18 years of age or older
9 have standing to seek enforcement of this section.

10 (l) Venue.--A civil action brought under this section shall
11 be filed in this Commonwealth.

12 Section 5. Effective date.

13 This act shall take effect immediately.