

HOUSE BILL 1368

C2

2lr2553

By: **Delegates Cox, Boteler, McComas, Morgan, Rose, Shoemaker, and Thiam**
Introduced and read first time: February 11, 2022
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Social Media Websites – Censored Speech**

3 FOR the purpose of prohibiting a social media website from taking certain actions to censor
4 the religious speech or political speech of a certain user; providing that the owner or
5 operator of a social media website is subject to a certain cause of action for taking
6 certain actions to censor the religious speech or political speech of a certain user;
7 authorizing the Attorney General to bring a certain civil cause of action; providing
8 that a violation of this Act is an unfair, abusive, or deceptive trade practice that is
9 subject to certain penalties; requiring a social media website to publish certain rules
10 and policies and provide certain notice related to the ban or suspension of a user;
11 requiring the Secretary of State to impose certain fines on a social media website
12 under certain circumstances; prohibiting a social media website from using a certain
13 user’s alleged hate speech for a certain purpose; and generally relating to social
14 media websites and censored speech.

15 BY adding to

16 Article – Business Regulation

17 Section 19–1001 through 19–1009 to be under the new subtitle “Subtitle 10. Speech
18 Censored by Social Media Websites”

19 Annotated Code of Maryland

20 (2015 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Criminal Law

23 Section 11–203(a)(1) and (5) and (b)

24 Annotated Code of Maryland

25 (2021 Replacement Volume and 2021 Supplement)

26 BY repealing and reenacting, without amendments,

27 Article – Election Law

28 Section 1–101(a) and (l)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2017 Replacement Volume and 2021 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 **Article – Business Regulation**

6 **SUBTITLE 10. SPEECH CENSORED BY SOCIAL MEDIA WEBSITES.**

7 **19–1001.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (B) “ALGORITHM” MEANS A PROCESS OR SET OF RULES TO BE FOLLOWED
11 IN CALCULATIONS OR OTHER PROBLEM–SOLVING OPERATIONS.

12 (C) “HATE SPEECH” MEANS WORDS THAT AN INDIVIDUAL FINDS OFFENSIVE
13 BASED ON THEIR PERSONAL MORALS.

14 (D) “OBSCENE” HAS THE MEANING STATED IN § 11–203 OF THE CRIMINAL
15 LAW ARTICLE.

16 (E) “POLITICAL SPEECH” MEANS WORDS RELATING TO THE STATE, BODY
17 POLITIC, PUBLIC ADMINISTRATION, PUBLIC POLICY MAKING, OR THE GOVERNMENT,
18 INCLUDING DISCUSSION OF SOCIAL ISSUES OR SPEECH BY GOVERNMENT OFFICIALS
19 OR ENTITIES OR CANDIDATES FOR POLITICAL OFFICE.

20 (F) “RELIGIOUS SPEECH” MEANS WORDS RELATING TO A PARTICULAR
21 SYSTEM OF FAITH AND WORSHIP.

22 (G) “SOCIAL MEDIA WEBSITE” MEANS AN APPLICATION, A PROGRAM,
23 SOFTWARE, OR A WEBSITE THAT ALLOWS USERS TO COMMUNICATE WITH EACH
24 OTHER BY POSTING INFORMATION, COMMENTS, MESSAGES, OR IMAGES AND THAT:

25 (1) IS OPEN TO THE PUBLIC;

26 (2) HAS MORE THAN 75,000,000 USERS;

27 (3) HAS NEVER BEEN AFFILIATED WITH A SPECIFIC RELIGION OR
28 POLITICAL PARTY;

1 **(4) PROVIDES A METHOD FOR USERS TO REPORT OBSCENE MATERIAL**
2 **AND HAS PROCEDURES FOR EVALUATING THOSE REPORTS AND REMOVING OBSCENE**
3 **MATERIAL; AND**

4 **(5) REQUIRES A USER TO AGREE TO TERMS OF SERVICE OR ANY**
5 **OTHER USER AGREEMENT ESTABLISHED BY THE SOCIAL MEDIA WEBSITE FOR**
6 **REGISTRATION AND USE.**

7 **(H) “USER” MEANS A PERSON THAT:**

8 **(1) USES A SOCIAL MEDIA WEBSITE; AND**

9 **(2) AGREED TO THE TERMS OF SERVICE OR OTHER USER AGREEMENT**
10 **ESTABLISHED BY THE SOCIAL MEDIA WEBSITE.**

11 **19-1002.**

12 **(A) THIS SUBTITLE APPLIES TO A SOCIAL MEDIA WEBSITE THAT OPERATES**
13 **IN THE STATE OR HAS USERS WHO RESIDE IN THE STATE.**

14 **(B) THIS SUBTITLE DOES NOT APPLY TO:**

15 **(1) A SOCIAL MEDIA WEBSITE THAT DISFAVORS, CENSORS, OR**
16 **DELETES A USER’S SPEECH IF THE SPEECH:**

17 **(I) CALLS FOR IMMEDIATE ACTS OF VIOLENCE OR CRIMINAL**
18 **CONDUCT;**

19 **(II) CALLS FOR A USER TO SELF-HARM;**

20 **(III) IS OBSCENE OR PORNOGRAPHIC IN NATURE;**

21 **(IV) IS HARMFUL TO MINORS, INCLUDING SPEECH THAT BULLIES**
22 **OR HARASSES A MINOR;**

23 **(V) COMES FROM AN INAUTHENTIC SOURCE OR INVOLVES**
24 **IMPERSONATION;**

25 **(VI) DEPICTS EXCESSIVE VIOLENCE;**

26 **(VII) CONSTITUTES TRADEMARK OR COPYRIGHT INFRINGEMENT;**
27 **OR**

1 (VIII) CONSTITUTES UNSOLICITED FRAUDULENT OR
2 COMMERCIAL INFORMATION;

3 (2) SPEECH THAT A SOCIAL MEDIA WEBSITE IS REQUIRED TO
4 DISFAVOR, CENSOR, OR DELETE UNDER A COURT ORDER;

5 (3) A SOCIAL MEDIA WEBSITE USER'S DISFAVORING, CENSORING, OR
6 DELETING OF ANOTHER USER'S SPEECH; OR

7 (4) ACTIONS TAKEN BY A SOCIAL MEDIA WEBSITE TO DISFAVOR,
8 CENSOR, OR DELETE SPEECH MADE BY OR DIRECTED TO A MINOR.

9 **19-1003.**

10 (A) A SOCIAL MEDIA WEBSITE MAY NOT:

11 (1) TAKE ACTIONS TO DISFAVOR, CENSOR, OR DELETE A USER'S
12 RELIGIOUS OR POLITICAL SPEECH; OR

13 (2) USE AN ALGORITHM TO DISFAVOR, CENSOR, OR DELETE A USER'S
14 RELIGIOUS OR POLITICAL SPEECH.

15 (B) A CIVIL ACTION AGAINST THE OWNER OR OPERATOR OF A SOCIAL MEDIA
16 WEBSITE FOR A VIOLATION OF THIS SECTION MAY BE BROUGHT BY:

17 (1) A USER THAT WAS HARMED BY THE VIOLATION; OR

18 (2) THE ATTORNEY GENERAL ON BEHALF OF A USER THAT WAS
19 HARMED BY THE VIOLATION.

20 **19-1004.**

21 (A) A USER THAT BRINGS A CAUSE OF ACTION UNDER THIS SUBTITLE MAY
22 BE AWARDED:

23 (1) ACTUAL DAMAGES;

24 (2) A MONETARY AWARD NOT EXCEEDING \$75,000;

25 (3) IF THE SOCIAL MEDIA WEBSITE ENGAGED IN WILLFUL AND
26 WANTON MISCONDUCT, PUNITIVE DAMAGES; AND

27 (4) ANY OTHER EQUITABLE RELIEF.

1 **(B) THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY'S**
2 **FEEES TO THE PREVAILING PARTY IN A CAUSE OF ACTION BROUGHT UNDER THIS**
3 **SUBTITLE.**

4 **(C) A SOCIAL MEDIA WEBSITE THAT RESTORES A USER'S DISFAVORED,**
5 **CENSORED, OR DELETED RELIGIOUS OR POLITICAL SPEECH WITHIN A REASONABLE**
6 **PERIOD OF TIME MAY USE THIS FACT TO MITIGATE DAMAGES UNDER THIS SECTION.**

7 **19-1005.**

8 **THE VENUE FOR A CIVIL ACTION UNDER THIS SUBTITLE SHALL BE IN THE**
9 **COUNTY WHERE THE USER OF THE SOCIAL MEDIA WEBSITE:**

10 **(1) RESIDES; OR**

11 **(2) WAS THE SUBJECT OF AN ACT BY A SOCIAL MEDIA WEBSITE**
12 **PROHIBITED UNDER THIS SUBTITLE.**

13 **19-1006.**

14 **A VIOLATION OF § 19-1003(A) OF THIS SUBTITLE IS:**

15 **(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN**
16 **THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND**

17 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
18 **UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

19 **19-1007.**

20 **(A) (1) A SOCIAL MEDIA WEBSITE SHALL PUBLISH THE RULES AND**
21 **POLICIES RELATING TO BANNING, SUSPENDING, DISFAVORING, CENSORING, AND**
22 **DELETING THE SPEECH OR ACCOUNTS OF A USER.**

23 **(2) THE RULES AND POLICIES IN PARAGRAPH (1) OF THIS**
24 **SUBSECTION SHALL BE APPLIED TO USERS IN A FAIR AND CONSISTENT MANNER BY**
25 **A SOCIAL MEDIA WEBSITE.**

26 **(B) WITHIN 30 DAYS AFTER THE BANNING OR SUSPENSION OF THE**
27 **ACCOUNT OF A USER, A SOCIAL MEDIA WEBSITE SHALL NOTIFY THE USER IN**
28 **WRITING OF THE FOLLOWING:**

1 (iii) that the work, taken as a whole, lacks serious artistic,
2 educational, literary, political, or scientific value.

3 (b) (1) A person may not willfully or knowingly display or exhibit to a minor
4 an item:

5 (i) the cover or content of which is principally made up of an obscene
6 description or depiction of illicit sex; or

7 (ii) that consists of an obscene picture of a nude or partially nude
8 figure.

9 (2) A person may not willfully or knowingly engage in the business of
10 displaying, exhibiting, selling, showing, advertising for sale, or distributing to a minor an
11 item:

12 (i) the cover or content of which is principally made up of an obscene
13 description or depiction of illicit sex; or

14 (ii) that consists of an obscene picture of a nude or partially nude
15 figure.

16 (3) If a newsstand or other place of business is frequented by minors, the
17 owner, operator, franchisee, manager, or an employee with managerial responsibility may
18 not openly and knowingly display at the place of business an item whose sale, display,
19 exhibition, showing, or advertising is prohibited by paragraph (2) of this subsection.

20 Article – Election Law

21 1–101.

22 (a) In this article the following words have the meanings indicated unless a
23 different meaning is clearly intended from the context.

24 (1) (1) “Candidate” means an individual who files a certificate of candidacy for
25 a public or party office.

26 (2) “Candidate” includes:

27 (i) an incumbent judge of the Court of Appeals or Court of Special
28 Appeals at an election for continuance in office; and

29 (ii) an individual, prior to that individual filing a certificate of
30 candidacy, if a campaign finance entity has been established on behalf of that individual.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.