

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 497

Short Title: Stop Social Media Censorship Act. (Public)

Sponsors: Senators Alexander, Corbin, and Johnson (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 5, 2021

A BILL TO BE ENTITLED

AN ACT TO ENACT THE STOP SOCIAL MEDIA CENSORSHIP ACT TO PROHIBIT CERTAIN SOCIAL MEDIA WEBSITES FROM CENSORING CERTAIN POLITICAL OR RELIGIOUS SPEECH.

Whereas, the federal Communications Decency Act was created to protect decent speech, not deceptive trade practices; and

Whereas, repealing section 230 of the Communications Decency Act at the federal level is unnecessary because it already includes a state law exemption, and the Stop Social Media Censorship Act was crafted to fall squarely in the state law exemption of section 230 to cure abuses of section 230 to protect the consumers of this State; and

Whereas, this State has a compelling interest in holding certain social media websites to higher standards for having substantially created a digital public square through fraud, false advertising, and deceptive trade practices; and

Whereas, major social media websites have engaged in the greatest bait and switch of all time by marketing themselves as free, fair, and open to all ideas to induce subscribers only to then prove otherwise at great expense to consumers and election integrity; and

Whereas, breach of contract, false advertising, bad faith, unfair dealing, fraudulent inducement, and deceptive trade practices are not protected forms of speech for the purpose of the First Amendment of the United States Constitution or the Constitution of this State; and

Whereas, the major social media websites have already reached critical mass, and they did it through fraud, false advertising, and deceptive trade practices at great expense to the health, safety, and welfare of consumers of this State, while making it difficult for others to compete with them; and

Whereas, the State has an interest in helping its citizens enjoy their free exercise rights in certain semipublic forums commonly used for religious and political speech, regardless of which political party or religious organization they ascribe to; and

Whereas, this State is generally opposed to online censorship unless the content is injurious to children or promotes human trafficking—only then does this State accept limited censorship; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 75 of the General Statutes is amended by adding the following new Article to read:

"Article 9.

"Stop Social Media Censorship Act.

"§ 75-150. Title.

This Article shall be known and may be cited as the "Stop Social Media Censorship Act."



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**"§ 75-151. Purpose.**

This Article is intended to create a statute that parallels the spirit of 47 U.S.C. § 230 that falls within the state law exemption under 47 U.S.C. § 230(e)(3) and create a civil right of action that will deter the following:

- (1) Deceptive trade practices.
- (2) False advertising.
- (3) Breach of contract.
- (4) Bad faith.
- (5) Unfair dealing.
- (6) Fraudulent inducement.
- (7) The stifling of political and religious speech in the modern day digital public square cultivated by social media websites that have achieved critical mass through fraud.

**"§ 75-152. Definitions.**

The following definitions apply in this Article:

- (1) Algorithm. – A set of instructions designed to perform a specific task.
- (2) Harmful to minors. – As defined in G.S. 14-190.13(1).
- (3) Hate speech. – A phrase concerning content that an individual finds offensive based upon his or her personal moral code.
- (4) Human trafficking. – As defined in G.S. 14-43.11 and describes an offense under that section.
- (5) Obscene material. – As defined in G.S. 14-190.1.
- (6) Political speech. – Speech relating to the State, government, body politic, or public administration as it relates to governmental policy-making. The term includes speech by the government or candidates for office and any discussion of social issues.
- (7) Religious speech. – A set of unproven answers, truth claims, faith-based assumptions, and naked assertions that attempt to explain greater questions, such as how the world was created, what constitutes right and wrong actions by humans, and what happens after death.
- (8) Shadowban. – The act of blocking or partially blocking a user or the user's content from an online community such that it would not be readily apparent to the user that the user or their content had been blocked. The term also includes similar terms, such as stealth banning, ghost banning, or comment ghosting.
- (9) Social media website. – An internet website or application that enables users to communicate with each other by posting information, comments, messages, or images and that meets all of the following requirements:
  - a. An open and public forum.
  - b. More than 75,000,000 subscribers.
  - c. From its inception, no specific affiliation with any single religion or political party.
  - d. Provides a means for its users to report obscene material and has procedures in place for evaluating those reports and removing obscene material.

**"§ 75-153. Civil action; deceptive trade practice; exceptions.**

(a) If the Attorney General fails to enjoin or otherwise prosecute a claim under this Article within 60 days of receiving a complaint from a user, the owner or operator of a social media website who contracts with a social media website user in this State is subject to a private right of action by a user if the social media website intentionally engages in any of the following conduct:

- 1           (1) Deleting or censoring the user's religious speech or political speech.  
2           (2) Using an algorithm to disfavor, shadowban, or censure the user's religious  
3               speech or political speech.  
4       (b) A social media website user may be awarded the following damages for violations of  
5 this section:  
6           (1) Up to seventy-five thousand dollars (\$75,000) in statutory damages.  
7           (2) Actual damages.  
8           (3) Punitive damages, if aggravating factors, as provided in G.S. 1D-15(a), are  
9               found.  
10          (4) Any other available equitable relief.  
11       (c) The prevailing party in an action under this section may be awarded costs and  
12 reasonable attorneys' fees.  
13       (d) A social media website may mitigate damages imposed under this section if it restores  
14 from deletion or removes the censoring of a user's speech in a reasonable amount of time.  
15       (e) A social media website may not utilize a user's alleged hate speech as a basis for  
16 justification or as a defense to an action under this section.  
17       (f) The Attorney General may bring an action under this section on behalf of a social  
18 media website user who resides in this State and whose religious speech or political speech has  
19 been censored by a social media website.  
20       (g) The conduct described in subsection (a) of this section shall be deemed an unfair and  
21 deceptive trade practice in violation of G.S. 75-1.1 and is subject to the penalties in G.S. 75-15.2.  
22       (h) The following conduct is not prohibited under this section:  
23           (1) A social media website that deletes or censors a user's speech or that uses an  
24               algorithm to disfavor or censor speech that does any of the following:  
25               a. Calls for immediate acts of violence.  
26               b. Calls for an individual to harm himself or herself.  
27               c. Contains obscene, lewd, filthy, lascivious material, or material that is  
28                   harmful to minors.  
29               d. Is the result of operational error.  
30               e. Is the result of a court order.  
31               f. Comes from an inauthentic source or involves false impersonation.  
32               g. Encourages criminal conduct.  
33               h. Involves bullying of minors.  
34               i. Constitutes trademark or copyright infringement.  
35               j. Is excessively violent.  
36               k. Constitutes harassing spam that is commercial and not political or  
37                   religious in nature.  
38           (2) A social media website user's censoring of another user's speech.  
39       (i) Only social media website users 18 years of age or older may bring an action under  
40 this section.  
41       (j) A private right of action is created under this Article only if the Attorney General fails  
42 to enforce this Article as provided by G.S. 114-2(11) and subsection (a) of this section."  
43       **SECTION 2.** G.S. 114-2 is amended by adding a new subdivision to read:  
44       "(11) To enforce Article 9 of Chapter 75 of the General Statutes, the North Carolina  
45       Stop Social Media Censorship Act."  
46       **SECTION 3.** This act is effective when it becomes law and applies to conduct  
47 occurring on or after that date.